OIL REMOVAL FROM BLACKFEET LEASE

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

THE REMOVAL OF OIL FROM A BLACKFEET RESERVATION

AUGUST 10, 1981
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OIL REMOVAL FROM BLACKFEET LEASE

AUGUST 10, 1981

U.S. SENATE,
SELECT COMMITTEE ON
INDIAN AFFAIRS,
Great Falls, Mont.

The committee met, pursuant to notice, at 2 p.m., in the Federal Building, Great Falls, Mont., Senator John Melcher (acting chairman) presiding.

Present: Senator Melcher.

Staff present: Tim Woodcock, staff director, and Max Richtman, minority staff director.

Senator MELCHER. Good afternoon. The hearing will come to order. We have a difficult situation here today. This inquiry is called to establish the procedure of tracing the ownership from Indian and Federal leases, and the lease itself, to the point of purchase, whether delivered to a pipeline or to a refinery. In this case, it is my understanding that it is a pipeline company.

The incident of oil movement that concerns us today occured on July 28, and was from an Indian lease. We will hear from each person that was involved, and gather all the information they can provide us about that particular incident, as an example of attempting to show how the ownership is traced from the lease itself to the point of sale.

Since the Geological Survey has to trace, monitor, and supervise the oil production and the oil shipments from Indian and Federal leases, it is obvious that if the procedure is not clear on the Indian lease, then it is not clear on a Federal lease. We want to delve into that. We want to really concern ourselves with what Geological Survey's responsibility is, what their regulations are, and what the law is.

Tomorrow at 2 p.m., in Casper, Wyo., the Senate Energy Committee will hold a public hearing. I serve on that committee also and I will be there. We will be looking again at the procedures that Geological Survey is following.

The investigation of oil thefts from the Wind River Reservation started when Chuck Thomas apprehended a truck that was traveling from an Indian lease on the Wind River Reservation without a run ticket. So, this incident of July 28 of this year is a similar event. Whatever surveillance there is on an Indian reservation is an attempt to establish that the oil movement is handled properly and that the ownership is handled properly. This might even be tougher on a Federal lease where there is not as much surveillance as on an Indian reservation. So we are concerned in both committees—on both the Indian Affairs Committee and the Senate Energy

Committee—about whether or not the Geological Survey has a system that is indeed effective, does indeed trace ownership, and results in everyone getting what is coming to them.

We on the Select Committee on Indian Affairs started looking at the problems. First of all, we had numerous reports that possibly the situation that existed at the Wind River Reservation might also exist on other reservations. So last year, before the turn of the new year, we started to make some inquiries in the Billings area office of the Bureau of Indian Affairs and the Geological Survey office and began to consult with them about what were the proper procedures. Was it so loose that it needed to be corrected? Was there a necessity for new Federal law? How could we tighten up on the procedure to be sure that everything is adequately taken care of and the ownership of oil protected.

We have been repeatedly told over the past 8 or 9 months by Geological Survey officials that the regulations require a run ticket as the essential document of ownership; that the transport of oil without a run ticket is in violation of their regulations and is illegal. Ten days ago, Geological Survey officials reaffirmed the requirement in a statement made to the Oil Daily. In response to whether a trucker must have a run ticket in his possession to move oil off a lease, Ron Heath, Acting Deputy Conservation Division Manager for Geological Survey in Denver said:

> This is true, a run ticket is required for any movement of oil. While the lack of a run ticket does not make it a theft, it makes it suspect.

This seems to be contradicted somewhat by Jim Sims, Acting Chief of Field Operations for USGS Conservation Division in Casper, Wyo.

Speaking about the July 28 incident up on the Blackfeet Reservation, he said: "I think it is a technical violation of our requirements." I do not know what a technical violation of USGS requirements is, and we will be interested to find out. I would like to learn all I can about technical violations of requirements in contrast to what we have been told earlier.

You know, it seems rather basic to me that if you have a load of somebody's property on a truck, you must have some sort of ownership identification. I think of moving cattle. I do not know about other States, but if you move cattle in Montana without a brand inspection, if you are stopped by a sheriff or a brand inspector, everyone would think you are not only violating the law but you are immediately very much a suspect. So, I think it is almost basic to say that there must be some method of establishing ownership while the oil is in transit. We were told that there is.

We have a list of citations here from the previous hearings that we have held. Here is one from Charlie Curtis, who works for Mr. Sims. He works for the USGS, but he is under Mr. Sims in Casper. In a memo dated March 14, 1980, to the district engineers, signed by Mr. Curtis, he said, "Any truck transport of oil should also be required to have a ticket showing the source, volume, and destination of the oil."

Now, we can go on, and on, and on, but here is Dr. Kash's statement. Dr. Kash was head of the Conservation Division and on April 6 of this year he said: "Well, the first thing I am telling you is that we did not have a procedure in place when Mr. Thomas stopped that truck and we should have had." That is the incident of Chuck Thomas stopping the truck a little over 1 year ago at Wind River and there was no run ticket with it.

About 2 minutes later, Dr. Kash said, "I am not willing to accept dereliction of duty." I asked him whether he did not think the Conservation Division of the USGS was guilty of dereliction of duty because the incident was not reported. Dr. Kash said:

> I am not willing to accept dereliction of duty. What I am suggesting in this process, is that we were not prepared to deal with the magnitude of the allegations of oil theft. Mr. Thomas reported that event. It should have been immediately reported to an appropriate law enforcement authority, and it was not. We have indicated that.

Mr. Curtis, the person who supervises this oil movement in the Casper district—by the way, we are in the Casper district here too—says that you are supposed to have a run ticket. There is a memo out to everybody to have a run ticket. Dr. Kash, head of the Conservation Division at the time of the incident on the Wind River, says, "That was an incident where there was no run ticket. It should have been reported to the local authorities or reported to the Conservation Division." He was decrying the fact that Thomas or his superiors had not reported it to enough law enforcement people.

Then, to complicate all this, there is a memo from W. J. Linton, who was a district engineer at Thermopolis, to Mr. Curtis, who was the oil and gas supervisor for the north central region. He is under Mr. Sims and Mr. Sims is now the acting supervisor for the Casper region. Now, in this memo from Mr. Linton to Mr. Curtis, it says: "The run ticket itself must be made out at the field, not at the shipping point where the oil enters the pipeline." That is obvious, and it should be obvious. It should be obvious if we believe what USGS has been telling us: That they want ownership established; and that they want to enforce regulations which require establishment of ownership. It should be obvious if you believe, as I do, that when you have someone's property on a truck, you should have some document showing whose property it is and what it is. It just defies all commonsense, as far as I can tell, to be moving a commodity on a truck without being able to document whose commodity it is. That seems to me to be very elementary and basic.

We want to trace this incident through completely from start to finish. We want to trace this incident from an Indian oil lease and then find out if the same practice is being followed on Federal leases. I do not think this is a tribal lease, but we will find out. I think it is an allottee lease. But there is some feeling that whether it is an allottee lease or a tribal lease, the people living there on the reservation are going to be observant and they are going to pay attention. Maybe the tribe has some help, as is the case here, in making sure that movements of oil are followed under a procedure where ownership identity is not lost.

But, I want to be sure what happens on Federal leases. While the Geological Survey regulations and the enforcement procedures would be identical on a Federal or an Indian lease, I have an idea it is run even more loosely on a Federal lease because there is not as much checking up; there are not as many people looking over their shoulders.

If this is the case, we all have a lot at stake. Let me remind every one of you who are from Montana that, as a State we share in the royalties gained from oil or gas produced on a Federal lease. We share 50 percent in the case of oil produced on a Federal lease. So, it is a question of the citizens of Montana and their ownership of 50 percent of the royalty. It is a question of the citizens of the United States in their ownership of the royalty.

Then, it goes without saying, that whoever is the operator of the lease also has a big interest when something is taken. Frequently, they are not riding around to see that their rights are protected. So, who do we depend on? Well, we depend upon, by law, the U.S. Geological Survey. You might say, we are not getting our money's worth lately. We are spending probably as much money as we should with the USGS to have adequate personnel who are trained properly with good experience to do what they are supposed to do. But I think we are wasting a lot of money when we cannot even figure out, after this long an investigation, just what USGS's regulations are.

Now, we are getting different answers. We had the answer first that the USGS regulation concerning oil requires a run ticket. Now, we are getting the runaround. We have asked the rest of the headquarters at USGS to give us a brief on what they believe the law is regarding a run ticket. They have not produced one. They have produced some conflicting statements that indicate doubt. Well, we will not let it rest there.

What we embarked on earlier this year was to clean up this mess; have it run honestly, have it run accurately; and have an accounting system that works. We want to reassure the public that the oil is being handled properly; the ownership is there; the ownership is established; the ownership is not in doubt; and proper payment is made.

After being told by USGS that there would be a crash inspection program that would give priority to looking into Indian reservations first, a couple of months ago we made a surprise visit to the Blackfeet Reservation. We were a little bit surprised ourselves to find out that it was a very loose operation. We could not tell where the oil produced on a given well really went. We could not even find out from Geological Survey personnel, who happened to be there on some of the locations, whether or not they knew where the oil came from and how it got to a storage tank. We could not tell what the point was of having seals on valves, when you could remove the seal, open the valve, and then replace the seal without breaking it. We could not tell what the effect of a crash program was, when it looked as if it were very loose. We could not tell because the USGS inspector who was on the job did not seem to be familiar with the operation of the storage tanks which he was supposed to be inspecting.

Well, that was a couple months ago, and it shook our belief that the crash inspection program on Indian reservations really meant very much or was really effective. I do not think it was. So now, we find that the incident occurring on July 28 confirms our suspicions that there really was not much checking out and tightening up of the program by USGS on the Blackfeet Reservation.

Before we get into calling witnesses, I would like to recognize sitting to my right, Tim Woodcock, who is staff director of the Select Committee on Indian Affairs. Tim will make a statement on behalf of Senator Cohen, the chairman of the committee, who could not be here today.

Tim, would you give that statement.

Mr. WOODCOCK. Thank you, Mr. Chairman. This is a statement that Senator Cohen wished to have read into the record.

PREPARED STATEMENT OF WILLIAM S. COHEN, U.S. SENATOR FROM THE STATE OF MAINE

I would like to express my regret at being unable to attend today's inquiry concerning the circumstances under which oil was transported from the Blackfeet Reservation on July 28 without proper documentation. This incident is less than 2 weeks old, yet, its nature is such that it requires the prompt attention of this committee to insure that an accurate and fresh record be established on it. The speed with which this matter must be addressed has made an inquiry at this time a necessity, even though, long-standing commitments in my home State of Maine prevent me from being present.

Nevertheless, this issue has my personal interest, and I am committed through questions I have drawn for this hearing, to the creation of a thorough record of this incident and to the furthering of the committee's lengthy investigation of oil and gas monitoring systems on Indian reservations.

I should note that the Select Committee on Indian Affairs has been investigating the oil and gas monitoring practices on Indian reservations since before the beginning of the current Congress. The abuses that have been uncovered have existed literally for decades, although, within the last 10 years, with the rise in the value of oil and gas, the problem has become acute. Although many of the problems that have been uncovered in this investigation exist on Federal lands as well as Indian reservations, this committee is limited by its jurisdiction to concentrating on addressing this issue as it pertains to Indian lands.

The existence of conditions on Indian lands which invite theft, moreover, deserve particular attention, because for many tribes these wasting assets, these resources that cannot be renewed, represent the best chance for achieving a greater control of their own destinies.

Today's inquiry will be the fourth time that this committee has met on the oil and gas lease monitoring problem. It contains the Select Committee's commitment to insuring the integrity of the on-site monitoring system. The adequacy of this system is, in the committee's view, a necessary prerequisite to insuring the adequacy of royalty accounting and related functions.

In pursuing this investigation, the Select Committee has followed two courses. First, it has sought to uncover the particular conditions existing on Indian leases that invite theft. Second, it has studied ways in which the conditions can be eliminated. Today's hearing will, in these two respects, be no different from its predecessor. This inquiry is different, however, in that it is focusing on one specific incident in which oil left an Indian reservation without the proper documentation. It, therefore, promises to be a case study of how such transfers occur. I should note at this point that I do not assume that this incident occurred with criminal intent. That must await a future investigation. The manner in which this incident came to light warrants the special attention of this committee.

At first blush, the events of July 28 sound all too familiar, yet, they are very different. First, the presence of a truck full of oil on the Blackfeet Reservation without a run ticket was discovered by tribal, and I emphasize tribal, monitors hired by the Blackfeet Tribe. Second, these tribal monitors have been trained by an expert on lease monitoring who himself was retained by the Blackfeet Tribe. Third, the B.I.A., the chief executor of the United States trusts responsibility to Indian tribes, was quickly involved in the incident. I congratulate the Blackfeet Tribe in taking this initiative to protect its resources. In so doing, the Tribe has provided an excellent example of how the human resources of an Indian tribe can be marshaled to protect its natural resources. The quick involvement of the B.I.A. police, who are readily available on many reservations, is also instructive.

I look forward to the submission of testimony on this system, therefore, to determine whether it might prove helpful in the formulation of a final solution to the problem.

I thank Senator Melcher for the opportunity to make this statement a part of the live record.

Senator **Melcher**. I think we ought to start from the lease itself. Is Mr. Ron Row present?

Mr. Row. Right here.

Senator **Melcher**. Would you approach the witness stand, please.

[Ron Row, being first duly sworn, testified as follows:]

TESTIMONY OF MR. RON ROW, PUMPER FOR WILLIAMS EXPLORATION

Senator **Melcher**. Mr. Row, are you a pumper on this lease?

Mr. Row. Right.

Senator **Melcher**. Whose lease is it?

Mr. Row. Williams Exploration.

Senator **Melcher**. Do you have a number of active oil leases there which you oversee for Williams?

Mr. Row. There are two oil wells and one gas pipe that I operate on a contract basis.

Senator **Melcher**. Were you present on July 28 when this oil was moved?

Mr. Row. No; I had a day off.

Senator **Melcher**. That was your day off?

Mr. Row. Yes.

Senator **Melcher**. Was that your usual day off?

Mr. Row. No; I had worked about 10 days previous to that and I decided to take a day off.

Senator **Melcher**. What is the usual procedure, then, when you are present and oil is going to be removed from the storage tanks?

Mr. Row. Well, Don Hillius and I both get together——

Senator **Melcher**. Don Hillius is the gager?

Mr. Row. For Permean.

We will run the oil and find out how much B.S. & W. there is, what the tank temperature is and everything, and get the top gage on the tank. And then, the truck will come in and haul the oil, and we get the bottom gage when we are done.

Senator **Melcher**. Are you present when the truck is there?

Mr. Row. Well, not necessarily when the truck is there, when the gager is there.

Senator **Melcher**. So, the first step is that you and the gager, Don Hillius, will establish the gaging of the tank?

Mr. Row. Yes.

Senator **Melcher**. Then, would that be the same day the truck is going to come?

Mr. Row. No, he may be there a day or two ahead of the truck. But we get the bottom gage on the tank, so, you know how much oil was taken when the truck was there.

Senator **Melcher**. Were you aware that the truck was coming on this particular day?

Mr. Row. No, I wasn't.

Senator **Melcher**. When had you and Hillius gaged the tank?

Mr. Row. Thursday.

Senator **Melcher**. The Thursday previous to July 28?

Mr. Row. Right.

Senator **Melcher**. Which would have been what date? Do you have a calendar?

Mr. Row. I am not sure.

Senator **Melcher**. Was the incident of July 28 on a Tuesday?

Mr. Row. Monday.

Senator **Melcher**. It was on a Monday. I thought it was Tuesday.

Mr. Row. OK.

Senator **Melcher**. Tuesday?

Mr. Row. OK.

Senator **Melcher**. But on the Thursday preceding that day, the tank had been gaged?

Mr. Row. Well, no, we had not gaged it at that time. We had run the oil and found out how much B.S. & W. there was to the oil and everything. And at that time, there was not enough oil in the tank to ship it, so we decided to wait a couple of days to get a top gage and transport the oil at that time.

Senator **Melcher**. Were you present when it was top gaged?

Mr. Row. Well, that is one of the unfortunate parts of this. The truck apparently was ahead of the gager and he did not know about it, or whatever, I do not know, I was not there.

Senator **Melcher**. At any rate, you were not aware of when it was top gaged?

Mr. Row. Right.

Senator **Melcher**. And it was not top gaged on the previous Thursday?

Mr. Row. No, not when it was run.

Senator **Melcher**. So, in other words, from Thursday until July 28, the tank received more oil because——

Mr. Row. Right.

Senator **Melcher**. What is your attitude or Williams' attitude on this whole procedure?

Mr. Row. Well——

Senator **Melcher**. Let's start with the gaging. Do you see anything wrong with the gaging as far as Williams is concerned?

Mr. Row. No, we are both there at the same time. We check each other usually and everything. I think it is a fine way to do it. I think if people do want to cross-check us, why not have somebody from the Indian and BIA or Tribal Resources or whatever come out for a month at a time and go around and gage the tank with us. They can go with us, and they could determine at that time if we are messing around with the oil, or whatever.

Senator **Melcher**. In this instance, has this ever happened before?

Mr. Row. No.

Senator **Melcher**. You are telling us that the tank, as far as you know, was never top gaged?

Mr. Row. No. Now, I heard the truckdriver, I understand, did gage it before he took it.

Senator **Melcher**. Nobody on behalf of Williams top gaged it or witnessed it being top gaged?

Mr. Row. No.

Senator **Melcher**. Is this an unusual incident?

Mr. Row. Yes; it is very unusual. It is unfortunate that it happened. Nobody was trying to get away with anything; steal any oil, or whatever.

Senator **Melcher**. Now, when you are present representing Williams, when it is top gaged, at what point do you and Hillius work it out so you can read the bottom gage?

Mr. Row. Whenever he comes back around. We do not produce back into the tank until we do bottom gage it. And it might be 2 days later.

Senator **Melcher**. Well, you're pumping into that tank——

Mr. Row. No.

Senator **Melcher**. Or you were at that instance?

Mr. Row. We are not producing into the tank from which we have taken the oil.

Senator **Melcher**. Once you have top gaged, you quit putting any more oil into the tank, obviously?

Mr. Row. Yes.

Senator **Melcher**. In this instance, since you had not top gaged, you had not quit putting oil into the tank?

Mr. Row. No. Now again, I can not say what happened that day, but I did hear that the truckdriver did pump the oil out of the tank into the tank that we were not producing into. Then, when he was finished, he turned it back into the tank again.

Senator **Melcher**. Was there only one load of oil from this tank battery that was taken?

Mr. Row. That day, yes.

Senator **Melcher**. From that Thursday to Tuesday?

Mr. Row. Yes.

Senator **Melcher**. Including the Tuesday, just one?

Mr. Row. Yes.

Senator **Melcher**. And so, as far as Williams was concerned, it was one load of oil sold?

[Witness nods head in affirmative manner.]

Senator **Melcher**. And only one load?

Mr. Row. Yes.

Senator **Melcher**. Could you have top gaged on Friday or Saturday?

Mr. Row. Sure, and turned the oil out of the tank and waited for the truck at that point.

Senator **Melcher**. Then, if this happened, what would be the start of the ordinary procedure for the truck itself?

Mr. Row. Now, I understand that the truckdriver makes out a trip ticket. He does not have a run ticket with him at the time. He has a trip ticket which shows the amount of oil taken and everything. And, well, he transports the oil and comes back and gets the bottom gage.

Senator **Melcher**. I am not asking what happened in this instance. Apparently you were not around. You do not know anything about it except what you have heard.

I am asking what is the usual procedure? If you had top gaged the tank and if the truck had come, under the usual procedure, what would have been your responsibility?

Mr. Row. Well, after the top gaging is done, my responsibility really ends right there. The oil belongs, at that point, to Permean.

Senator **Melcher**. What about the bottom gage?

Mr. Row. We own the whole tank, and we do bottom gage it again.

Senator **Melcher**. So that ownership transferred from Williams to Permean?

Mr. Row. By top gage.

Senator **Melcher**. Then, what kind of a document is that?

Mr. Row. Just a ticket, a run ticket.

Senator **Melcher**. Just what is a run ticket?

Mr. Row. It states your B.S. & W., the tank temperature, your gravity of your oil, the top gage, your bottom gage, the amount of oil taken in barrels.

Senator **Melcher**. How many barrels would it state?

Mr. Row. In this case here?

Senator **Melcher**. Yes.

Mr. Row. There was 231.

Senator **Melcher**. All right. How do you know ahead of time it is going to be 231 barrels?

Mr. Row. Well, he will take a full load and it does not matter what it is. We have tank tables.

Senator **Melcher**. I understand that, but that was after you had read the bottom gage?

Mr. Row. Yes.

Senator **Melcher**. We are ahead of that point. That is what I wanted to find out; what you describe as a run ticket. So you can not establish the number of barrels of oil at that point, can you?

Mr. Row. After you have the bottom gage?

Senator **Melcher**. No, prior.

Mr. Row. Prior to that, it might be 226.

Senator **Melcher**. Yes, and how do you develop this run ticket? You and Hillius, as a gager for Permean, are present and you read the top gage for the tank. Then you start a run ticket; is that correct?

Mr. Row. Right.

Senator **Melcher**. And you mark down the gravity and what have you?

Mr. Row. Yes.

Senator **Melcher**. How are you going to mark down the number of barrels of oil? You can not at that point, can you?

Mr. Row. Not until you have your truck loaded. Then, after it is loaded, you measure the tank and find out how much it is.

Senator **Melcher**. Say you gage this tank on Friday or Saturday and that truck is not going to come there until Monday or Thursday. Now where is that document in the interim?

Mr. Row. With the gager.

Senator **Melcher**. He has it. Have you signed it or anything?

Mr. Row. Yes.

Senator **Melcher**. You have signed it?

[Witness nods head in affirmative manner.]

Senator **Melcher**. Then he keeps that?

Mr. Row. Yes.

Senator **Melcher**. It is actually completed at the time when the bottom gage is read?

Mr. Row. Right.

Senator **Melcher**. Can that be read without you being present?

Mr. Row. No, I would have to be there to sign it at one point.

Senator **Melcher**. So the run ticket, then, is not actually with the trucker?

Mr. Row. No.

Senator **Melcher**. It would not be with the trucker?

Mr. Row. No.

Senator **Melcher**. So the trucker would not have had the document unless you were present?

Mr. Row. Yes.

Senator **Melcher**. And the gager was present?

Mr. Row. Yes.

Senator **Melcher**. Does that happen very often?

Mr. Row. Not too often. They have a lot of wells to maintain, I understand, and the gager is always ahead of the truck. In this case, the truck was ahead of the gager.

Senator **Melcher**. Well, if the gager were ahead of the truck, what would he do, wait for the truck?

Mr. Row. No, he would go ahead and run the oil and get the top gage on it, and the truckdriver would just kind of take the oil at that time.

Senator **Melcher**. What would he run it into?

Mr. Row. Run the oil means to work it, to figure it out, the B.S. & W.

Senator **Melcher**. I understand that. You have already done that. You are going to do that, again, for the bottom gage?

Mr. Row. No.

Senator **Melcher**. We have already done the top gaging, right? And we are, assuming you or Williams are present. The next step is what I want. What happens during the interim until the truck comes, until he actually receives the oil? Hillius, as the gager, would have possession of the run ticket?

Mr. Row. Right.

Senator **Melcher**. Then, after that, does he come ahead of the truck? Is he present when the truck fills?

Mr. Row. He is always ahead of the truck, or usually ahead of the truck. He may be there at certain times and watch the truck fill up.

Senator **Melcher**. Would he wait there for the truck to come?

Mr. Row. If he is with the truck, he would, and get the bottom gage.

Senator **Melcher**. He cannot complete the document until the truck has taken the oil?

Mr. Row. Right.

Senator **Melcher**. So he would be ahead of the truck and wait until the truck has taken the oil. Then he would complete the document?

Mr. Row. Then, he comes back and completes the document.

Senator **Melcher**. He then, takes the bottom measurement?

Mr. Row. Yes.

Senator **Melcher**. Would you have to sign it then?

Mr. Row. Yes.

Senator MELCHER. So at that point, the trucker would not have the run ticket unless you happened to be there and the gager happened to be there at the time the truck, was filled?

Mr. Row. Yes.

Senator MELCHER. Is Williams satisfied with this system?

Mr. Row. They were. We had it all worked out with USGS and BIA and everybody concerned. They knew that the trucks did not have run tickets when the oil was taken. It is common knowledge.

Senator MELCHER. Who is your immediate boss?

Mr. Row. Jim Maroney.

Senator MELCHER. Where is he?

Mr. Row. Denver.

Senator MELCHER. What has he said to you about this?

Mr. Row. He never has before.

Senator MELCHER. Was he concerned?

Mr. Row. He wants it straightened out.

Senator MELCHER. He has been apprehensive that a procedure as loose as this is not very good for Williams or him, or am I reading more into this?

Mr. Row. He is confident that I am taking care of this, insofar as there is no loss of oil, or I hope he is.

Senator MELCHER. Describe for us why he was unhappy about this incident.

Mr. Row. Well, that it took place at all.

Senator MELCHER. What took place; that it had not been top gaged?

Mr. Row. That Permean's truck was ahead of the gager, and that is it.

Senator MELCHER. Let me be sure I understand. Williams was unhappy because the tank had not been top gaged?

Mr. Row. Right.

Senator MELCHER. Then he was unhappy that the oil had been moved off of the lease without that having happened?

Mr. Row. Yes.

Senator MELCHER. Therefore, the oil was moved off the lease without the start of a run ticket, even a start of one?

Mr. Row. No, the oil had been ran.

Senator MELCHER. When had it?

Mr. Row. Thursday; well, 4 days previous to that.

Senator MELCHER. It had not been top gaged, though?

Mr. Row. No.

Senator MELCHER. So, the question that arose in your supervisor's or Williams' mind was, not only that the incident had happened, but why had it happened; is that correct?

Mr. Row. Yes.

Senator MELCHER. Have you been inspected by USGS this year?

Mr. Row. Several times.

Senator MELCHER. Have they described for you what they do?

Mr. Row. They come around and check out our whole operation: Our pits; our tanks; our seals; everything. I think they have done a fair job with the amount of people they have available. The tribe helps them out a lot with their selective people to keep everything straight.

Senator **Melcher**. Is this trip ticket—run ticket—that you described uniform?

Mr. Row. Yes.

Senator **Melcher**. If Permean was not buying this oil, would it be the same for anyone else?

Mr. Row. Do you mean if another oil company bought it?

Senator **Melcher**. Yes, if another oil company were buying it.

Mr. Row. It has always been Permean.

Senator **Melcher**. That you dealt with?

Mr. Row. Yes.

Senator **Melcher**. So, as I understand it, a run ticket is started by taking the gravity of the oil, et cetera. Then, ordinarily, you would take the top gage of the tank?

Mr. Row. Yes.

Senator **Melcher**. Would you initial that or sign it yourself?

Mr. Row. Right.

Senator **Melcher**. Is it correct reading, then, that would remain in the hands of the gager until the load had actually been taken?

Mr. Row. Right.

Senator **Melcher**. And there was only, commonly, to be one load involved in this sale?

Mr. Row. Yes.

Senator **Melcher**. Then the gager would come back and you would jointly read the bottom gage?

Mr. Row. Right.

Senator **Melcher**. Would there ever be an occasion when you would not read the bottom gage together?

Mr. Row. It has happened a couple of times, when Don would take the bottom gage. But, it has to agree with my books.

Senator **Melcher**. Yes, because the oil would not be coming into that tank, and you would check it with the ticket?

Mr. Row. Right.

Senator **Melcher**. Your supervisor, would you repeat his name?

Mr. Row. Jim Maroney, M-a-r-o-n-e-y.

Senator **Melcher**. He is your supervisor who is in Denver?

Mr. Row. Right.

Senator **Melcher**. And his dissatisfaction stemmed from the fact that the tank had not been top gaged, the oil had been removed, and then the bottom gage was read without you being present; is that right?

Mr. Row. Well, I witnessed the bottom gaging in that I did check Permean to see that it was correct.

Senator **Melcher**. That was on what date, the day after?

Mr. Row. Yes.

Senator **Melcher**. It would be July 29?

Mr. Row. Yes.

Senator **Melcher**. So Jim Maroney's objection, or Williams; was really the fact that the top gage had not been read?

Mr. Row. Yes.

Senator **Melcher**. I can understand that. You would not know how much oil was there.

Thank you very much, Ron. would you mind being present for the next hour or so; we may want to ask you another question or so.

Mr. Row. Sure.

Senator **Melcher**. Now, I think to trace this next procedure, we would like to hear from Joe A. Miller. Joe, are you here?

Mr. **Miller**. Yes, sir.

Senator **Melcher**. Joe is from Western Oil Transportation, Inc. We would also like to hear from Jerry Lotvedt and Don Hillius, the gager.

Would you stand and raise your right hands, please.

[Joe A. Miller, Jerry Lotvedt, and Don Hillius, being first duly sworn, testified as follows:]

TESTIMONY OF JOE A. MILLER, WESTERN OIL TRANSPORTATION CO. AND JERRY LOTVEDT AND DON HILLIUS, PERMEAN, INC. AND WESTERN OIL TRANSPORTATION CO.; ACCOMPANIED BY BOB CROTTY, COUNSEL

Mr. **Crotty**. Senator Melcher, my name is Bob Crotty. I am representing these gentlemen and the Permean Corp. and Western Corp.

Senator **Melcher**. We are delighted to have you, Bob.

Mr. **Crotty**. Could I make a very short statement, Senator, before you question these people?

Senator **Melcher**. Certainly.

Mr. **Crotty**. Permean, Inc. and Western Oil Transportation Co. are interested in presenting the facts of the situation involved in purchasing and transporting the load of crude oil from Rainbow Resources, Inc. to Medicine 1-3 lease on July 28, 1981. Permean and Western Transportation Co., acted through their employees Jerry Lotvedt and Don Hillius.

There has been an implication that Lotvedt created a misdeed for lack of a so-called run ticket in Mr. Lotvedt's possession when he drove from the lease to Cut Bank, Mont. Based upon our review of the State and Federal statutes and regulations, it appears that those who imply such a ticket must be present, have been ill-informed. In the Connolly Act regulations issued by the USGS, and in 30 CFR, part 222, the term "run ticket" is not even mentioned in sections dealing with records required to be maintained by crude oil purchasers and truck transporters, such as Permean and Western Oil.

Further, statements that imply a run ticket must be present in every truck running oil off a lease, also ignores industry practices, realities and practicalities. I think another point I would like to make, Senator, is there seems to be a question of where the oil is purchased. We purchase the oil from the producer at the lease. At that time, it becomes our client's property.

In this truck that day, and in all trucks, we have a truck delivery ticket. I have a specimen ticket here if you would like to see it. We actually pay for whatever leaves the tank on the lease. For example, if the truck were to overturn or burn, so we could not refine the oil into gas, we still must pay for the amount which left the lease tanks. There is proper documentation and there is proper documentary proof in the truck, by way of the truck delivery ticket and the weigh bill.

These gentlemen are certainly here and happy to answer any questions that you may have.

Senator MELCHER. First of all, whatever document you have there, we will take a look at it right now.

Now, this only involves the truckers; is that correct?

Mr. CROTTY. Yes, that is true.

Senator MELCHER. So it does not have anything to do with the seller of the oil; the owner of the oil?

Mr. CROTTY. At that time, no. That is our ticket. That is the trucker ticket.

Senator MELCHER. What you are in effect saying, is that once the oil is on the truck, it belongs to Permean?

Mr. CROTTY. That is correct.

Senator MELCHER. I do not think there has ever been any question of that. The question is having put it on the truck, has the ownership been established to identify that it is Permean's. I think that is the basis of a lot of this inquiry.

Maybe not the entire substance of what we are looking for, but the very, very basic point of this inquiry is to establish a transfer of ownership at the time the oil goes onto the truck.

Mr. CROTTY. And that truck ticket, weigh bill, indicates who is the owner of the oil. It indicates the origin and it indicates the destination of the oil.

But I think the trucker——

Senator MELCHER. Well, it is a one-sided document. It is a document of the purchaser, without the seller being involved. So it is not what we are looking for.

Mr. Lotvedt, is not this ticket so you know that you will get your payment for hauling the oil?

Mr. LOTVEDT. Yes, it is.

Senator MELCHER. Is that what you used it for; to turn in to Permean so they will pay you for hauling the oil from wherever you haul it?

Mr. LOTVEDT. This is true.

Senator MELCHER. What do you usually get? Setting this incident aside, do you ever have a run ticket?

Mr. LOTVEDT. I have never had a run ticket.

Senator MELCHER. Do you know what they are even describing as a run ticket?

Mr. LOTVEDT. I know now.

Senator MELCHER. But you have never carried a run ticket?

Mr. LOTVEDT. Never.

Senator MELCHER. Do you take oil for Permean from other leases other than this one?

Mr. LOTVEDT. Oh, yes.

Senator MELCHER. How many?

Mr. LOTVEDT. Trucked oil, I would imagine on 20 or 25 different leases.

Senator MELCHER. Twenty or twenty-five different leases?

Mr. LOTVEDT. Yes.

Senator MELCHER. Are they all on the reservation?

Mr. LOTVEDT. No.

Senator MELCHER. Are any of them Federal leases?

Mr. LOTVEDT. Some are.

Senator **Melcher**. And you follow exactly the same procedure. So you leave a Federal lease with just this being the only document that you have in your possession. When do you fill it out?

Mr. **Lotvedt**. I fill that out while I am loading.

Senator **Melcher**. Do you carry that with you?

Mr. **Lotvedt**. Yes.

Senator **Melcher**. There is never anyone representing the owner of the oil present?

Mr. **Lotvedt**. At different times, there are the pumpers that work for the oil companies.

Senator **Melcher**. In this particular incident, there was not, though; is that correct?

Mr. **Lotvedt**. Well, partially correct.

Senator **Melcher**. Did you see Ron Row that day?

Mr. **Lotvedt**. No, I did not.

Senator **Melcher**. So in this particular case, he was not present?

Mr. **Lotvedt**. His helper was.

Senator **Melcher**. Oh, Ron Row's helper was?

Mr. **Lotvedt**. Yes.

Senator **Melcher**. Who is that?

Mr. **Lotvedt**. I do not remember his name.

Mr. **Miller**. Will Wood.

Mr. **Lotvedt**. May I say something?

He was not present at the particular lease that you are inquiring about. He was present at another lease that I hauled that morning on the same day, off of the tribal land for Rainbow Leases.

Senator **Melcher**. Is that Williams Exploration?

Mr. **Lotvedt**. Right.

Senator **Melcher**. And you hauled another lease earlier in the day?

Mr. **Lotvedt**. Prior to this particular load.

Senator **Melcher**. Was Will Wood present at that lease?

Mr. **Lotvedt**. Yes.

Senator **Melcher**. But not on this particular lease?

Mr. **Lotvedt**. No.

Senator **Melcher**. At the time you were stopped and asked for a run ticket, did you produce this?

Mr. **Lotvedt**. I was loading when I was approached by the Indian Bureau people that asked me if I did have a run ticket, and I said, no. I showed them that particular delivery ticket and I said, this is the only ticket that I have.

Senator **Melcher**. Were you loading on the lease itself?

Mr. **Lotvedt**. Yes.

Senator **Melcher**. Then, you had already started to fill it out, but you could not complete it, I do not suppose, could you?

Mr. **Lotvedt**. No.

Senator **Melcher**. But you had already filled it out?

Mr. **Lotvedt**. It was filled out, but it did not have the run ticket number in it and it did not have barrels of oil in it.

Senator **Melcher**. There was no meter at this lease?

Mr. **Lotvedt**. No.

Senator **Melcher**. So it had to be handgaged?

Mr. **Lotvedt**. Right.

Senator Melcher. So you knew which tank you wanted to take it out of?

Mr. Lotvedt. I did not know before I went up and looked in the tank.

Senator Melcher. You just looked to see which one was full?

Mr. Lotvedt. That is right.

Senator Melcher. Did you realize which tank was being pumped into?

Mr. Lotvedt. Yes.

Senator Melcher. Then, what did you do?

Mr. Lotvedt. I switched out into the other tank, and I top gaged.

Senator Melcher. Let's take it one step at a time. When you switched out into the other tank, you turned some valves?

Mr. Lotvedt. Yes.

Senator Melcher. So that the——

Mr. Lotvedt. So the production went into the third tank other than the one I was going to load out of.

Senator Melcher. Did those valves have a seal on them?

Mr. Lotvedt. The top valves?

Senator Melcher. No.

Mr. Lotvedt. The bottom?

Senator Melcher. When you switched from one, those valves did not have any seals on them?

Mr. Lotvedt. No.

Senator Melcher. Then, at that point, you have it switched over. Now then, you started to take oil from the fullest tank?

Mr. Lotvedt. I gaged that tank before I started to take oil out.

Senator Melcher. You top gaged it?

Mr. Lotvedt. Yes.

Senator Melcher. Do you frequently top gage?

Mr. Lotvedt. I do, and I bottom gage at times.

Senator Melcher. Did you know a run ticket had been started, or are you even familiar with what they have described as a run ticket?

Mr. Lotvedt. Yes, I am familiar with a run ticket at this point in time.

Senator Melcher. Were you familiar prior to this date, on what a run ticket was?

Mr. Lotvedt. The only interest I had in a run ticket before, was to get the run ticket number and amount of barrels to complete my delivery ticket.

Senator Melcher. So that would be this document here, you would get a run ticket number?

Mr. Lotvedt. Yes.

Senator Melcher. And how would you get the number of barrels? Would you establish the number of barrels yourself?

Mr. Lotvedt. No.

Senator Melcher. You just filled your truck up, and eventually the run ticket, based on the gaging, established how many barrels there are?

Mr. Lotvedt. That is right.

Senator Melcher. Did you bottom gage this tank, also?

Mr. Lotvedt. Yes.

Senator Melcher. So you took a top gage reading and a bottom gage reading?

Mr. Lotvedt. Yes, I did.

Senator Melcher. What were those?

Mr. Lotvedt. The top gage was 13 feet 8¾ inches, if I remember correctly. I wrote it down and gave the gages to Joe Miller. And the bottom gage, if I remember correctly, was 2 feet 2½ inches.

Senator Melcher. Two feet, two-and-a-half inches?

Mr. Lotvedt. Yes.

Senator Melcher. And you gave those to Joe Miller?

Mr. Lotvedt. Yes.

Senator Melcher. Do you have that document with you?

Mr. Miller. No, I do not.

Mr. Crotty. We can make a run ticket available, the completed run ticket available.

Senator Melcher. We will get into that run ticket.

Did you give it to them on this document, the gaging measurement?

Mr. Lotvedt. No, I wrote it on a tablet that I have in the truck. Then, I tear it off and give it to him.

Senator Melcher. So you do not really fill in the number of barrels on this until at some point later on?

Mr. Lotvedt. That is right.

Senator Melcher. Why were you loading this oil if it had not been top gaged by Hillius?

Mr. Lotvedt. I was sent up there that morning to haul these two loads of oil. And I was sent to this other lease first because they had been worked and the top gage had been taken at the time. And this other tank had been worked, but the top gage had not been gotten and it had not been completed, but it was supposed to have been by the time I got there, which it was not. Not knowing where the gager was, I top gaged it, loaded the oil, and left. It is about 50 miles into Cut Bank and it is a long time to sit there and go back empty.

Senator Melcher. Did you know it had not been top gaged?

Mr. Lotvedt. Yes, I did when I looked; the production was still going in.

Senator Melcher. Has that ever happened before?

Mr. Lotvedt. At different times, I have top gaged Rainbow Resources' tanks up there and loaded and gotten the top and bottom gage, yes.

Senator Melcher. You are Mr. Hillius?

Mr. Hillius. Yes.

Senator Melcher. Don, you had top gaged the other tank?

Mr. Hillius. The 111.

Senator Melcher. The other lease, you had top gaged it?

Mr. Hillius. Yes.

Senator Melcher. But you had not top gaged this one?

Mr. Hillius. That's right.

Senator Melcher. Now, has this ever happened before?

Mr. Hillius. Oh, it happens once in a while, but very seldom. I had got stuck that day and was running late.

Senator Melcher. When had you top gaged on the other lease?

Mr. Hillius. On the 23d, which was Thursday.

Senator **MELCHER**. Which is Thursday. And why did you not top gage this particular tank?

Mr. **HILLIUS**. It was short of having a full load.

Senator **MELCHER**. So you wanted the production to run into there and Rainbow wanted it to run in there—or Williams wanted it to run in there. We will use the term "Williams" because that is what Mr. Row used, rather than Rainbow.

Mr. **HILLIUS**. He left it in, so when he would go up, he would have enough for a full load.

Senator **MELCHER**. Then, your intention was to be there and top gage?

Mr. **HILLIUS**. Yes, I intended to get up there before he got back from hauling the other lease.

Senator **MELCHER**. How would you have done it, though, with Mr. Row? Did you know Mr. Row was not going to be there?

Mr. **HILLIUS**. No, I did not.

Senator **MELCHER**. You would have top gaged it yourself without Row being present?

Mr. **HILLIUS**. Well, he was off, we probably would have, yes.

Senator **MELCHER**. Who is Mr. Will Wood that Jerry spoke of?

Mr. **HILLIUS**. That is Ron's helper.

Senator **MELCHER**. Where was he?

Mr. **HILLIUS**. Well, I saw him over at the gas plant.

Senator **MELCHER**. Could you have gotten him and said come over here, we want to top gage this tank?

Mr. **HILLIUS**. If he were there.

Senator **MELCHER**. Now, had you started a run ticket for this particular load?

Mr. **HILLIUS**. I started it on Thursday.

Senator **MELCHER**. You could not complete it?

Mr. **HILLIUS**. The first half you mean?

Senator **MELCHER**. Yes. What reading did you get? You could not get any top reading?

Mr. **HILLIUS**. Mr. Thomas and I witnessed, or bottom gaged it about 10 minutes after Jerry had left the lease.

Senator **MELCHER**. You never did get a top gage on it and you never could get a top gage on it, could you?

Mr. **HILLIUS**. No, I had to wait and come back to town and get with Jerry.

Senator **MELCHER**. What did you get for a bottom gage reading?

Mr. **HILLIUS**. 2 feet, 2½ inches.

Senator **MELCHER**. Was that bottom gage reading agreed to by Thomas?

Mr. **HILLIUS**. Yes, sir. He was standing right there beside me, and I read it with him.

Senator **MELCHER**. Was that the same reading that Jerry Lotvedt had gotten?

Mr. **HILLIUS**. According to what he told me, yes.

Senator **MELCHER**. Jerry, did you ever have a bottom reading of 2 feet 8¾ inches?

Mr. **LOTVEDT**. Two foot eight? No, I did not.

Senator **MELCHER**. What did you tell the FBI agents when they asked you about the reading?

Mr. **LOTVEDT**. What did I tell them?

Senator MELCHER. Yes, what did you tell the FBI when they asked you about the bottom reading of it?

Mr. LOTVEDT. Well, I do not recall if I told them or showed them this pad that I had the reading on.

Senator MELCHER. You do not recall?

Mr. LOTVEDT. No, I do not.

Senator MELCHER. Do you always gage the tanks for Permean, Don?

Mr. HILLIUS. Yes.

Senator MELCHER. You always gage the tanks for any oil that is hauled by Jerry Lotvedt?

Mr. HILLIUS. Most of the time, yes.

Senator MELCHER. Does somebody else gage for Permean?

Mr. HILLIUS. Joe does and I do.

Senator MELCHER. You do some gaging, Joe?

Mr. MILLER. Yes.

Senator MELCHER. Did you ever state in the presence of the Federal Bureau of Investigation that Jerry was not qualified to gage?

Mr. HILLIUS. I do not recall if I did or not at that point.

Senator MELCHER. You do not recall stating that?

Mr. HILLIUS. No.

Senator MELCHER. Do you recall that there was a discrepancy between the bottom gaging figure that you had and what was presented or described by Jerry to the FBI agents on this occasion?

Mr. HILLIUS. Not to the FBI.

Senator MELCHER. Well, to anybody?

Mr. HILLIUS. One of the tribal members said something, and I told him I did not know because I did not know what Jerry had.

Senator MELCHER. What was the discrepancy?

Mr. HILLIUS. He showed 2 feet 8¾ inches.

Senator MELCHER. He showed 2 feet 8¾ inches?

Mr. HILLIUS. Now, where he got that, I don't know.

Senator MELCHER. I think it is time to ask Joe Miller. What was written on that pad; was there a bottom reading of 2 feet 8¾ inches?

Mr. MILLER. No, there was 2 feet 2¾ inches, I believe. The top was 13 feet 8¾ inches.

Senator MELCHER. And then you entered that on the run ticket?

Mr. HILLIUS. Yes.

Senator MELCHER. And you had that in your possession?

Mr. HILLIUS. I had that one day, yes.

Senator MELCHER. Why was it not in your possession, Don? I thought this was your usual procedure. What is your procedure? You started a run ticket, you got the specific gravity of the oil, and what else do you have on that run ticket?

Mr. HILLIUS. B.S. & W., temperature, lease number, tank number, tank size, where the lease had come off.

Senator MELCHER. Now, you took that on Thursday?

Mr. HILLIUS. Right.

Senator MELCHER. And it was signed by Ron?

Mr. HILLIUS. That is right. The seal that was to come off is recorded on the bottom.

Senator MELCHER. The seal number was on there, too?

Mr. Hillius. Yes.

Senator Melcher. Did you record the seal number that you broke when you took that oil?

Mr. Lotvedt. No, I did not.

Senator Melcher. You did not?

Mr. Lotvedt. No.

Senator Melcher. But you know it was the right seal number, do you, Don?

Mr. Hillius. Yes, because I did not cut it.

Senator Melcher. You have checked and you know that the seal was broke.

Mr. Hillius. Yes, I looked when I put it on the ticket.

Senator Melcher. Then, you know that the right seal was broken. Did you check the number of the seal that was broken?

Mr. Hillius. I did not have the seal.

Senator Melcher. Pardon me?

Mr. Hillius. I did not have the seal after it had been broken.

Senator Melcher. Who had the seal?

Mr. Hillius. Evidently it was either lying on the ground——

Senator Melcher. It was not checked?

Mr. Hillius. It might have been put in the gage, I do not know.

Senator Melcher. But it was not checked. Jerry, do you know what happened to it?

Mr. Lotvedt. As far as I know, I left it right down below the valve when I broke the seal.

Senator Melcher. But, you never found it, Don?

Mr. Hillius. No.

Senator Melcher. You had that run ticket on Thursday. What did you do with it?

Mr. Hillius. I had it in my book with me all the time.

Senator Melcher. So how did a run ticket, then, start to appear on Tuesday, if he had it, if he was not present when this oil truck got there? How did you get a run ticket?

Mr. Miller. Well, Tom was asking me if we had a run ticket on it, and I said, yes.

Senator Melcher. Tom who asked you?

Mr. Miller. Charles Thomas.

Senator Melcher. Charles Thomas?

Mr. Miller. I said the other gager has got the ticket, and he said, no, he does not have one. I said, that is sure funny, I always have a ticket. And then, I tried to get ahold of Hillius and I co[illegible] not get ahold of him on the two-way. About the time I was going [illegible] get him on the phone, he pulled up behind me.

Senator Melcher. So, at what point did you put it——

Mr. Miller. After the FBI gave me the ticket back.

Senator Melcher. You have a piece of paper that he keeps on a tablet for the top gaging and the bottom gaging. That is the way Jerry has described it.

Mr. Miller. Right.

Senator Melcher. Did you have that in your possession?

Mr. Miller. Right.

Senator Melcher. Well, did you enter it yourself?

Mr. Miller. Yeah, afterwards. I got it.

Senator MELCHER. Did you enter the top gaging figure and the bottom gaging figure?

Mr. MILLER. Right.

Senator MELCHER. On what?

Mr. MILLER. On the run ticket.

Senator MELCHER. At what point?

Mr. MILLER. After the FBI gave me the ticket back.

Senator MELCHER. Did you tell me that Don Hillius did indeed have the run ticket in his possession?

Mr. MILLER. Right, the run ticket.

Senator MELCHER. Then, he had the run ticket, he showed a bottom gaging; is that correct?

Mr. HILLIUS. Right, I did not have it entered.

Senator MELCHER. You did not have it entered at that point?

Mr. HILLIUS. No.

Senator MELCHER. Where did you have that figure, in your head?

Mr. HILLIUS. I wrote it down on the bottom of the ticket.

Senator MELCHER. You had it written on the bottom of the ticket?

Mr. HILLIUS. Down below where it doesn't interfere with——

Senator MELCHER. But you had not entered it?

Mr. HILLIUS. No.

Senator MELCHER. Why not?

Mr. HILLIUS. Well, I was going to check with Jerry and see what he had. And if there was anything conflicting, we would have to give it back to Mr. Row and get it straightened out.

Senator MELCHER. How does the FBI come into this run ticket?

Mr. CROTTY. Explain to him how the FBI got involved; when, where, and how.

Mr. MILLER. I guess Thomas must have called them.

Senator MELCHER. No, I know about that. Did you turn over the run ticket to the FBI agent?

Mr. HILLIUS. Yes, he asked to see it.

Senator MELCHER. At that point, then, you got it from him?

Mr. MILLER. Yes, after he got it back.

Mr. CROTTY. Senator, maybe I can clarify this. The truckdriver, Joe, the FBI, Mr. Thomas, all of these people were in Cut Bank where the truck was being unloaded. He came up at that time with the run ticket, and it was taken from him at that time. It was given back to Joe several days later.

Senator MELCHER. Several days later?

Mr. MILLER. About the 30th.

Senator MELCHER. It was not given to you on the same day?

Mr. MILLER. No.

Senator MELCHER. So all you had done at that point, Don, was to write a figure?

Mr. HILLIUS. Right.

Senator MELCHER. All you had done at that point, Joe, was to take a piece of paper that Jerry Lotvedt had filled out, giving both the top gaging and the bottom gaging figures?

Mr. MILLER. Yes, right.

Senator MELCHER. He handed you that figure at what point, that sheet of paper?

Mr. MILLER. He gave it to me when the FBI was up on the hill, when the FBI was there.

Senator MELCHER. Then, what did it say on it?

Mr. MILLER. It said 13 feet 8¾ inches down to 2 feet 2¾ inches, as far as I know.

Senator MELCHER. And at any point, did you hear the comment made to the agent that the bottom reading was 2 feet 8¾ inches?

Mr. MILLER. No.

Senator MELCHER. The figure that you wrote at the bottom of the run ticket, would you repeat that?

Mr. HILLIUS. The bottom gaging, you mean?

Senator MELCHER. Yes.

Mr. HILLIUS. Two feet two and a half inches.

Senator MELCHER. And you were unaware at that point what the top gaging figure would have been?

Mr. HILLIUS. Right.

Senator MELCHER. Now, just so I am clear on this. This seldom happens, that Permean picks up a load where the top gaging has not been read?

Mr. HILLIUS. Right.

Senator MELCHER. But it does happen?

Mr. HILLIUS. Well, if you happen to be running late or something. Sometimes, we will get there ahead of him.

Senator MELCHER. Does it happen on Federal leases, also?

Mr. HILLIUS. I do not know if it happens. It has not that I know of.

Senator MELCHER. It has not in your experience?

Mr. HILLIUS. No.

Senator MELCHER. But it has happened before on Indian leases?

Mr. HILLIUS. I did not say that.

Senator MELCHER. Well, I do not want to put words in your mouth, at all. I just want to understand what happens.

Mr. HILLIUS. Well, it happens once in a while, I did not say where.

Senator MELCHER. Does Permean have Indian, Federal, and private leases?

Mr. HILLIUS. Right. Once in a while at Dupuyer, which is a private lease, the gager happens to get there ahead of him.

Senator MELCHER. Who is the owner of that private lease?

Mr. HILLIUS. Mr. Hoyt.

Senator MELCHER. Where does he live?

Mr. HILLIUS. I believe here in Great Falls.

Senator MELCHER. Who is the pumper there?

Mr. HILLIUS. Don Miller, and he works for Prewett Excavating out of Conrad.

Senator MELCHER. Does he generally gage with you?

Mr. HILLIUS. Yes.

Senator MELCHER. Mr. Hoyt expects that?

Mr. HILLIUS. I do not know.

Senator MELCHER. Were there incidents that when gaging is done prior to the time the oil——

Mr. HILLIUS. He is always there, usually when Jerry is there. And he was there when we left. Once in a while, Jerry gets ahead of me, but Don is usually there.

Senator MELCHER. Has it ever happened that oil has been taken from that particular lease without being top gaged?

Mr. HILLIUS. Without it being top gaged?

Senator MELCHER. Yes.

Mr. HILLIUS. No, it has been top gaged by one of the three of us.

Senator MELCHER. But I thought you just said——

Mr. HILLIUS. I said he is usually always there.

Senator MELCHER. But, there has been occasions when he is not?

Mr. HILLIUS. Right, when something——

Senator MELCHER. When you look at this oil, Joe, when you receive this oil, you would ordinarily look for Hillius to give you the run ticket. At what point?

Mr. MILLER. He usually turns them in in the office.

Senator MELCHER. Where is the office?

Mr. MILLER. About 10 miles northwest of Cut Bank.

Senator MELCHER. And you received the oil virtually in Cut Bank? I am not familiar with your operation.

Mr. MILLER. No, usually either in Cut Bank, or there is a place out of Cut Bank and one northwest of Cut Bank.

Senator MELCHER. There are three points?

Mr. MILLER. Three points.

Senator MELCHER. Well, tell me the usual procedure on the use of the run ticket?

Mr. MILLER. Usually the gager moves it and usually got everything; temperature, gravity, B.S. & W., top gaging. And then, when the truckdriver hauls the oil, I come back later and get the bottom gaging and temperature and seal the tank.

Senator MELCHER. Now, when the truckdriver may take and break the seal, who replaces the seal?

Mr. MILLER. When I open the tank, I break the seal, and then, when I go back I take another seal.

Senator MELCHER. When did you get the run ticket?

Mr. MILLER. Oh, sometime that day or 3 or 4 days. Usually about 2 or 3 days.

Senator MELCHER. Do you always look to see whether they are signed by the seller of the oil?

Mr. MILLER. Not all the time.

Senator MELCHER. They are not signed all the time?

Mr. MILLER. I never check to see who signs them, no.

Senator MELCHER. Do you, Don? Are they frequently not signed?

Mr. HILLIUS. Some of them do not sign and some of them do. In this case, Williams requires a signature. Some of them do not.

Senator MELCHER. Are there any Federal leases where a signature is not required by the pumper?

Mr. HILLIUS. I do not know. Usually if the pumper is there, he signs them.

Senator MELCHER. How many Federal leases are you engaged on?

Mr. MILLER. I do not know how many we have. I do not necessarily gage them all. I have one area and Joe takes care of the other.

Senator MELCHER. How many, Joe?

Mr. MILLER. I do not know, I would have to count them.

Senator MELCHER. Is it half a dozen?

Mr. MILLER. At least half a dozen.

Senator MELCHER. But less than 10?

Mr. Miller. I think it is more than that.

Senator Melcher. Fifteen?

Mr. Miller. At the most.

Senator Melcher. Somewhere?

Mr. Miller. On the reservation.

Senator Melcher. Now, just the Federal?

Mr. Miller. Not more than 10.

Senator Melcher. Between perhaps a half a dozen to ten?

Mr. Miller. Probably 10.

Senator Melcher. Do these leases have pumpers on them?

Mr. Miller. Yes.

Senator Melcher. Does the procedure there require signatures?

Mr. Miller. Usually the pumpers are not around for a lot of them. I do not know if they are required to be witnessed or not.

Senator Melcher. Could we have a list of all the Federal leases and their operators, and if they do have a pumper on them, who they are?

Mr. Miller. Right.

Senator Melcher. May we have a list of the operators of the Federal leases?

Mr. Crotty. We will see that that information gets to you.

Senator Melcher. And the names of the pumpers.

Have you had experience with the Geological Survey personnel? Have their procedures ever been described to you?

Mr. Miller. The only time I saw one was when they proved to me—that was on the reservation.

Senator Melcher. We have been told very emphatically that their procedures are to require run tickets to be properly filled out at the lease. And apparently they never told you that?

Mr. Hillius. No.

Senator Melcher. They haven't told you, Don?

Mr. Hillius. Well, I hear stories.

Senator Melcher. They have never told you that?

Mr. Hillius. I have never received a letter or a statement.

Senator Melcher. Have they ever talked to you, or written to you, and said how they wanted a run ticket made out?

Mr. Hillius. No.

Senator Melcher. Joe?

Mr. Miller. No.

Senator Melcher. They have never bothered you at all?

Mr. Lotvedt. No.

Senator Melcher. I am just reading an internal document which says: "memorandum to all area oil and gas supervisors, north central region."

It says: "we stress the importance of proper gaging and run tickets made out at the field themselves, not at the shipping point where the oil enters the pipeline."

Mr. Hillius. I have not heard that.

Mr. Miller. I usually make it out right at the lease.

Senator Melcher. You usually make it out at the lease?

Mr. Miller. All the time, yes.

Senator Melcher. When you make it out at the lease, then, what happens to it?

Mr. MILLER. Well, usually after it is on the pipeline, I go ahead and ship it.

Senator MELCHER. No, you're at the lease and you have the run ticket.

Mr. MILLER. Yes.

Senator MELCHER. Then what happens to the run ticket?

Mr. MILLER. I have it in my pickup.

Senator MELCHER. You have it in your pickup, at the time, and it never accompanies the oil tickets?

Mr. MILLER. No.

Senator MELCHER. Is it filled out the same day the oil is moved?

Mr. MILLER. It would be filled out the next day; the bottom gaging and the seal.

Senator MELCHER. The bottom gaging would be filled out the next day?

Mr. MILLER. Yes, after the oil was refilled. This is mostly on the pipeline, but you do most of the gaging on the pipeline.

Senator MELCHER. In relation to this incident we have just talked about, would it not be possible to have Jerry Lotvedt come up there and turn off the valve so that the oil goes into the other tank? He breaks the seals on the tank, measures the top gage, breaks the seal on the tank, takes a load of oil out of it, shuts off the valve, and it is not resealed.

Then, if you are not going to read that for a day or two, would it not be possible to open up the valve and start production into that tank that is unsealed and remove the oil from it, or somebody remove the oil from it, without breaking the seal, without doing anything, just taking it?

Mr. HILLIUS. In this case, at the end of the lease, we have a padlock. So we would have to break the padlock in order to load it. When Jerry is done loading, he locks up the valve on the end of it.

Senator MELCHER. How does he know about this padlock? Do you have a key for it?

Mr. LOTVEDT. Oh, yes.

Senator MELCHER. So you could have done it, but no one else could have done it without breaking the padlock?

Mr. LOTVEDT. I am not too sure how many people have keys. It is not my padlock.

Senator MELCHER. Anyone who had a key could do it, right, Don?

Mr. HILLIUS. The only one I know of is the pumper and Jerry has a key to it.

Senator MELCHER. It is possible if you have a key?

Mr. HILLIUS. Well, anything is possible. Anybody could break the pipeline apart if they wanted to.

Senator MELCHER. How loose is this operation? That is the whole point of this inquiry. Is it so loose that——

Mr. HILLIUS. In this case, I was only about 2 minutes behind him in sealing up the tank.

Senator MELCHER. But, Joe just said that he generally seals them up the next day.

Mr. HILLIUS. A lot of them, we do come back the day after.

Senator MELCHER. So the routine depends upon the circumstances and when you get there. In this case, you had not gotten there to top gage it at all?

Mr. Hillius. Right, I was running late.

Senator Melcher. Because of circumstances?

Mr. Hillius. Right.

Senator Melcher. So nothing was filled out on the run ticket until you got back to catch up with Jerry. Then, he took the top gage reading and put that on the run ticket. Is that what happened?

Mr. Hillius. In this case, yes.

Senator Melcher. Did you ever note the seal that you broke, the number of it?

Mr. Lotvedt. No.

Senator Melcher. So, you can break the seal. If someone had broken the seal and replaced it, you would never have known that it had been broken or whether it was the seal that was entered on the gaging of the run ticket or not, would you?

Mr. Lotvedt. Not on this particular one.

Senator Melcher. No, because you did not take note of what the seal number was, and he never found the broken seal, so he did not know if it was the same seal as when you came there to take the gravity and started that run ticket on Thursday, do you, Don?

Mr. Hillius. No, not for sure.

Senator Melcher. I think, what you are telling us, is that it is loose. The whole operation is loose.

Mr. Hillius. Well, you would have to break the padlock if they had done anything else.

Senator Melcher. They would have to break the padlock or have a key?

Mr. Hillius. That is right.

Senator Melcher. That is some protection, but that does not say it cannot be done.

There are two tanks. When you go off of either tank, I take it, you would have the same circumstances?

Mr. Hillius. Right.

Senator Melcher. I think we would like to hear from the Blackfeet tribal representatives at this point.

I wonder if you could stay with us for another half hour or so, we may want to talk to you again.

Who is going to represent the Blackfeet Tribe?

[Chuck Thomas, Leland Ground, John Murray, and George Kipp, being first duly sworn, testified as follows:]

TESTIMONY OF GEORGE KIPP, BLACKFEET TRIBAL MONITOR; CHUCK THOMAS, BLACKFEET TRIBAL INVESTIGATOR; LELAND GROUND, CHAIRMAN, BLACKFEET TRIBE; AND JOHN MURRAY, BLACKFEET TRIBAL MONITOR

Senator Melcher. Please proceed, George, but would you speak up quite loudly.

Mr. Kipp. This is John Murray, the tribal monitor of gas and oil; Mr. Leland Ground, chairman of the Blackfeet Tribe's Natural Resources and also Blackfeet Tribal Council member; and Chuck Thomas, Blackfeet Tribal Investigator for gas and oil.

On the day in question, July 28, 1981, the tribal monitors; myself, Gary Comes At Night, and John Murray were on a routine procedure. At the time, we were going up past Rainbow's lease.

That is when we observed a truck being loaded. We do have a verbatim report to produce.

Mr. Murray here has a statement from the time that we questioned the truck driver, and I would like to turn this over to him and he can read the record verbatim.

Mr. MURRAY [reading]. At 10:15 a.m., July 28, Gary Comes At Night and myself had spotted a Permean operation semitanker, with Jerry Lotvedt painted on the door, traveling west on Highway 2. We decided to go out to Medicine Field at 12 noon to see if he was actually going to pump one of the wells.

At noon, we picked up our resource coordinator, G. T. Kipp, and went out to—we checked out to go to the hill area and check the cleanup on a well, S.V.A. Medicine well. At 1:35, we spotted a tanker truck at the Medicine 1-3, in position and possibly pumping oil. At 1:45 we arrived at the well and the tanks were being pumped.

I climbed into the cab and asked the driver a series of questions. The driver was an independent, and his name being the same as the sign on the door, Jerry Lotvedt. The driver was very basic to the questions asked. I identified myself as a tribal oil and gas monitor and asked the trucker if he had a run ticket or if he ever used a run ticket. The driver replied no. The driver showed Murray an uncompleted form of Rainbow Resources and his own signature. I believe it was his signature, it was some writing, I just surmised it was his own signature.

The driver stated he had been doing all the hauling for Rainbow, and he does no paperwork. I asked him if he had gaged the tanks. The driver said all he does is pump the oil.

I told him we were on routine procedures and we would like to have the amount of oil he was removing from the tanks. The driver told me to contact his supervisor, Joe Miller, of Western Oil Transportation, Cut Bank, Mont. I told the driver I would like to get all your run tickets for all oil and gas records, and that I would be in touch with his supervisor.

At this time, Kipp and Comes At Night had taken the truck's identifying marks for our daily logs. We decided to go to Chuck Thomas' residence in East Glacier, which is 4 miles distance. Comes At Night went into Chuck Thomas' house and called him at the Resource office in Browning. Thomas told Gary, he would meet us at the well in the next few minutes.

We then returned to the well in the pouring rain, and noticed fresh wheel tracks entering the highway. We continued east on Highway 2 and met Chuck Thomas about a mile down the road on Highway 2. We briefed Mr. Thomas on the incident and gave him our notes, and Thomas said, "Let's go get them."

At this time, Gary Comes At Night rode with Chuck Thomas. His report will be read later by Mr. Kipp. Thomas informed Kipp and myself that this particular truck will be about 3½ miles down the road. We proceeded to follow this tanker, to observe and photograph what was going to be done with the oil.

At 3:10, we arrived at the Base Tank Hill Farm, Cut Bank. G. T. Kipp decided to give the trucker about 5 minutes to get into position and make his hose connections. Giving him the allotted time, we drove into the tank area and parked in the front of the semitanker. The tanker had been dumping his oil for approximately 3 to 5 minutes.

Kipp and myself walked around the truck, and at this point, FBI Agent Gunner McCann jumped from behind the tanker and shouted, FBI, and showed him his identification. He took control of the situation and ordered the pumps shut off immediately. He was able to get ahold of an uncompleted form the truckdriver showed Murray and myself at Medicine 1-3.

Jerry Lotvedt, the independent trucker, was arrogant and demanded to be paid $50 an hour from 3:15 until such time as he was able to dump his oil. He showed us where the watch hands were.

Senator **Melcher**. What uncompleted form are you speaking of?

Mr. **Murray**. This form I had read earlier.

Senator **Melcher**. Is it similar to this?

Mr. **Murray**. Yes, it is.

Senator **Melcher**. Is it similar to what had been described as a trucker's delivery ticket?

Mr. **Murray**. Yes, from Rainbow Resources.

Senator **Melcher**. Truck delivery ticket?

Mr. **Murray**. Yes.

Mr. Lotvedt requested we pay him $50 an hour. I told him to bill Tribal Central Accounting, the Natural Resource Coordinator.

There is a point I would like to bring out here. We, the Natural Resource Coordinator, myself, and Comes At Night questioned Mr. Lotvedt on an allotted lease, because he had, just before, pumped a tribal well across the road; well No. 111. So, he had tribal oil onboard.

At 3:45, agent LaFontaine and agent Wayne Malyard arrived at the tank holding farm. After a short briefing by Mr. Kipp, agent Malyard decided to wait for the Tribal Investigator Chuck Thomas. At 4:15, Mr. Thomas and Leland Grove of the tribal council arrived on the scene. Agent Malyard asked Jerry Lotvedt if he would get out of his truck and be interviewed in the vehicle of the FBI. The driver said he was not talking to anybody until his supervisor Joe Miller arrived. Agent Malyard agreed to wait.

At 5:50, Joe Miller, Western Oil Transportation, arrived. The trucker then got out and started to explain to his supervisor about the inconvenience we seemed to put on him. When questioned by the FBI and Thomas, the truckdriver said he had gaged the tanks and had a top reading of 13 feet 8¾ inches and a bottom reading of 2 feet 8¾ inches.

He had changed the story from the time we had been to Medicine, when he said he did not gage the wells.

A few minutes later, Don Hillius, a gager from Western Oil arrived. He said the driver is not trained to gage the tanks. He said he had gaged the tanks and had a top reading of 13 feet 7 inches and a bottom reading of 2 feet 2½ inches. A 6-inch difference in measurement is better than 10 barrels of oil.

I could not keep up with most of the discussion after everybody arrived on the scene. I know they were all trying to explain their procedures to make it appear that they were justified in operating in this manner. The driver seemed to change his story. The trucker said he could not understand all the stink concerning his truck when every trucker on the reservation operated in the same manner.

The fact remains that they were transporting tribal oil without proper documents.

That is the conclusion of what I have.

Mr. KIPP. I do have a report of Gary Comes at Night from the time that he did get in the vehicle with Mr. Thomas.

He stated:

> At 2:20 p.m. about 1 mile from the turnoff of 1-3 well, I got in with Chuck Thomas, and we decided to go back and see if there was a run ticket at well site 1-3. This is standard procedure for any oil company hauling crude oil; to just leave a run ticket on the door of the catwalk.
>
> We arrived back at well site 1-3, Township 31, at 2:25 p.m. There, Chuck and I, Gary, found a Western Oil Transportation employee, Hillius. Chuck then proceeded to ask questions of Hillius. Chuck introduced himself and myself to Hillius.
>
> Then, Chuck asked Hillius about the run ticket: Hillius said that Jerry Lotvedt, the trucker was not qualified to write a run ticket, that he himself, Hillius, was supposed to write it out, because Jerry was not qualified to do so. Chuck then asked when the last time was that Hillius had gaged the tank value. Hillius said last Thursday, the 23rd, 1981.
>
> So in between these days, and the time of the oil pick up, it was not gaged at all. Chuck asked about quantities of oil, the BS&W, botton of the tank. Hillius said he did all that Thursday, the 23rd.
>
> Chuck, then, told Hillius that this was wrong. Hillius agreed. Chuck told Hillius that the day before the pick up was when the A.P.I., and gravity test was supposed to take place. Also, the BS&W test, top gaging, and bottom gaging, were also to take place.
>
> Then, Chuck told Hillius that the load was hot. Hillius then agreed three or four times during the conversation that the load of oil was hot. This conversation took place during the pouring rain. Chuck and Hillius proceeded to go on up to the catwalk to get the gage of both tanks. They came down. The conversation resumed, and Hillius agreed that he should have been on up there in the morning; not late afternoon.
>
> Chuck told Hillius that he is to be notified of any oil sales, between Western and Rainbow, 2 hours in advance, so Chuck or one of the Monitors can be there to witness the actual sale. Hillius agreed.
>
> 3:05 p.m. left for Browning for 1-3. Then, Chuck called on the radio to K.B.Q. 393 to release a message to special officer Richard LaFontaine, and gave the message that Chuck had an illegal load of oil and was headed for Federal Tank Farm, Cut Bank, Mont. K.B.Q. 393 called back and asked Chuck the phone number of the Tank Hill Farm. LaFontaine said there was none. It was then asked, estimate time of arrival. Chuck said 5 minutes a few miles above Browning.
>
> They arrived at Special Officer LaFontaine. Chuck started explaining about the load of hot oil to the FBI Special Officer LaFontaine and FBI agent Malyard. FBI agent Malyard then proceeded to ask Chuck about how they determined the load of oil was hot. Chuck said there was no run ticket left by the trucker, nor by Western Oil gauger Hillius.
>
> FBI agent Malyard then called another FBI agent Don Buchanan, Cut Bank, to stop the trucker from unloading the hot oil. And then, the agent said, we are all going to Tank Hill Farms.
>
> Then, Chuck and I went to Leland Brown's and explained about the hot load of oil. Leland then wanted to go to Cut Bank with us. At 4:15 p.m., we arrived in Cut Bank Tank Hill Farms. There was special officer LaFontaine, Chuck, Leland Brown, Kipp, and myself, Gary Comes At Night. We proceeded to go over by the truck. FBI agent Malyard asked the trucker to get out. Then, the trucker said, no, not until his supervisor arrived, which was about 40 minutes before the supervisor arrived, then, Lotvedt got out.
>
> The questioning started about the run ticket that was never made out. The supervisor for Western Oil's story, the trucker's story and the gauger's story did not correspond with what the run ticket that was supposed to have been with the trucker. The supervisor said that they had been doing this for 4 years and no one has questioned them about this procedure. The trucker also said that for 2 years nobody has ever stopped him. As was asked by the FBI agent inspector, the trucker said employees figured out measurements, and BS&W, and was on the way to Cut Bank to 1-3.

The measurements of Hillius and the truck driver did not correspond. The FBI agent wanted to know if they should confiscate the truck and load. The agent asked Chuck. This conversation went on for about 10 minutes or so. The FBI agent decided to let the trucker unload the oil because of the documentation in possession of the FBI agents for further investigation.

7:15, back in the office.

Senator MELCHER. Who testified just now?

Mr. MURRAY. Gary Comes At Night.

Senator MELCHER. We will enter that as his testimony.

Now, John, you said that Jerry Lotvedt said that the bottom reading was 2 feet 8¾ inches?

Mr. MURRAY. Yes.

Senator MELCHER. Did you hear him say that?

Mr. MURRAY. He showed Agent Gunner McCann, George Kipp and myself these figures that were written on a pad.

Senator MELCHER. On a piece of white paper, on a tablet?

Mr. KIPP. Right, kind of a brownish type.

Senator MELCHER. John Murray, describe this.

Mr. MURRAY. It was a brown piece of paper. It looked more like a scrap piece of paper other than something that would be an official document.

Senator MELCHER. Was it a tablet?

Mr. MURRAY. No, it was not. It was just one sheet of paper folded.

Senator MELCHER. Was it ruled paper or what?

Mr. MURRAY. No, it was plain brown. It looked like it was office stationery or something; unlined paper.

Senator MELCHER. What did you see, two figures?

Mr. MURRAY. I saw two figures; one was 13 feet 8¾ inches, the other one was 2 feet 8¾ inches.

Senator MELCHER. Did you write those down?

Mr. MURRAY. Yes, I did.

Senator MELCHER. At that time?

Mr. MURRAY. Right.

Senator MELCHER. Who was he showing them to, to you?

Mr. MURRAY. He showed them to Agent Gunner McCann.

Senator MELCHER. Agent Gunner McCann?

Mr. MURRAY. I was standing alongside of him and jotted the figures down.

Senator MELCHER. Did Agent Gunner McCann jot the figures down?

Mr. MURRAY. Not to my knowledge.

Senator MELCHER. You did not see him write them down?

Mr. MURRAY. No.

Senator MELCHER. You do not know what he thought the figures were?

Mr. MURRAY. No, I do not.

Senator MELCHER. Was this prior to the time the other FBI agent was there?

Mr. MURRAY. Yes, that was when there was just the truckdriver, George Kipp and myself, and Agent Gunner McCann.

Senator MELCHER. When did the other agents arrive?

Mr. MURRAY. They arrived at approximately 3:45 p.m., at which time we had waited about one-half hour additional time.

Senator Melcher. As I understand it, from your testimony, Agent McCann arrived first?

Mr. Murray. No, no; we followed the truck up the hill approximately 3 to 5 minutes.

Senator Melcher. I am not explaining myself. The first FBI agent to arrive was Agent McCann; is that correct?

Mr. Murray. Yes.

Senator Melcher. Was there another FBI agent that arrived later?

Mr. Murray. Yes, there were special agents LaFontaine and Wayne Malyard of the FBI.

Senator Melcher. What time did Malyard arrive?

Mr. Murray. Approximately 3:45.

Senator Melcher. Did he witness this figure that was written down, this measurement of 13 feet 8¾ inches that you witnessed on a piece of paper?

Mr. Murray. Not to my knowledge.

Senator Melcher. It was only Agent McCann that witnessed that figure?

Mr. Murray. Yes, I saw Agent McCann and he had it in his hand.

Senator Melcher. But you do not know whether Agent Malyard ever saw it?

Mr. Murray. No, I do not.

Senator Melcher. Who is the senior agent of the two?

Mr. Murray. I believe Malyard is an inspector.

Senator Melcher. None of these figures showed up until Joe Malyard arrived?

Mr. Murray. When Joe Malyard arrived—or Don Hillius arrived, he said that he had done the gaging and and there was a figure of 13 feet 7 inches, and 2 feet 2½ inches.

Senator Melcher. When did Hillius arrive?

Mr. Murray. Approximately 6 o'clock.

Senator Melcher. The incident you are describing—two gaging figures written on a piece of paper—occurred before Hillius arrived or after?

Mr. Murray. Before.

Senator Melcher. Did it occur after Joe Miller arrived or before?

Mr. Murray. He showed us the figures before Joe Miller arrived.

Senator Melcher. Did he show it to you before he got out of the truck?

Mr. Murray. No, he climbed back into the truck after we initially encountered him. He crawled back into his truck, and we were waiting for Mr. Thomas to show up.

Senator Melcher. This description that you have written and provided us a copy of, says at 5:50 this happened. Was this after Joe Miller had arrived.

Mr. Murray. Well, I do not know if the FBI questioned him later. I have it here as 5:50.

Senator Melcher. But the actual incident of when you saw the paper and jotted down the figures occurred prior to this time?

Mr. Murray. Yes.

Senator Melcher. Sometime between 3 and 5, then?

Mr. Murray. Closer to about 3:15.

Senator **MELCHER**. And you do not know whether Agent McCann wrote down the figures or not?

Mr. **MURRAY**. I am not sure. He crawled back into his car, and he also had this document that he had taken from the trucker.

Senator **MELCHER**. What was it?

Mr. **MURRAY**. That was the ticket you showed me; similar to that.

Senator **MELCHER**. That ticket had nothing written on it for gaging?

Mr. **MURRAY**. No, it did not; it just had lease numbers on it.

Senator **MELCHER**. So the only thing that appeared that you saw, which had figures on it for gaging, was the piece of brown paper?

Mr. **MURRAY**. Right.

Senator **MELCHER**. Are any of the rest of you going to testify? George?

Mr. **KIPP**. I would like to recap my statement. I do not know if I conveyed this, but at the incident, when we did stop them, and we did arrive at the Tank Hill Farm, I informed the truckdriver who was there just to document the procedure that was involved in transporting oil and the sale of it.

At that time, I witnessed the measurement. I instructed John to get the figure of the trucker's gaging, which he showed us on that brown envelope. He was in his truck at the time and I asked him how much oil was involved. He said: "This is the gaging."

The special officer, Gunner McCann, had the document. And on that was only a lease number. He asked me at that time: "Is there anything that is supposed to be stated about what the amount of oil is?"

We both looked at the document. There was nothing stated as to amounts of oil that was being transported.

Senator **MELCHER**. Are you talking about this?

Mr. **KIPP**. Yes.

Senator **MELCHER**. This says on its face, a truck delivery ticket, weigh bill. That is what you are talking about?

Mr. **KIPP**. The delivery ticket.

Senator **MELCHER**. All right, delivery ticket.

Mr. **KIPP**. I think there is a space in there for the amount of oil. That was not filled out.

Senator **MELCHER**. And this was in the possession of McCann at the time?

Mr. **KIPP**. Yes, McCann had this.

Senator **MELCHER**. Did he have the other piece of paper which had the gaging written on it?

Mr. **KIPP**. The only time I recall seeing that gaging record was when the trucker showed it to me. It was on a brown piece of paper. I do not recall if it was on a back of a notebook pad or if it was just one sheet of paper, but I remember seeing these figures involved.

Senator **MELCHER**. What were the figures that you saw?

Mr. **KIPP**. 13 feet 8¾ inches for the top, and the bottom, 2 feet 8¾ inches.

Senator **MELCHER**. The bottom figure was 2 feet 8¾ inches?

Mr. **KIPP**. At the time, after the incident was over, I remembered these figures. There was a difference of 6 inches. At the time, I asked Mr. Hillius if he could tell me the amount of oil that could be involved in the 6 inches.

Senator **Melcher**. When did you ask Mr. Hillius that?

Mr. **Kipp**. After the final questioning of all the people involved.

Senator **Melcher**. What time of day?

Mr. **Kipp**. It would be right around 6:30.

I asked Mr. Hillius, and he brought out the chart. He showed me the difference of the storage battery and its capacity, how much oil it can hold. And at that time, 6 inches would amount to the figure he showed me, 10 barrels of oil. I recall that.

Senator **Melcher**. Was that about 6:30?

Mr. **Kipp**. Yes.

Senator **Melcher**. Did you tell Mr. Hillius why you were asking about the difference of 6 inches in gaging?

Mr. **Kipp**. Yes, I told him there was 6 inches difference in the gaging.

Senator **Melcher**. Did he say he did not understand why there was 6 inches difference or did he express surprise that you felt there was 6 inches difference in the gaging?

Mr. **Kipp**. No.

Senator **Melcher**. Did you tell him why there was a difference of 6 inches in the gaging?

Mr. **Kipp**. No.

Senator **Melcher**. You did not?

Mr. **Kipp**. I just asked him to read the amended chart to see if there was a difference of 6 inches.

Senator **Melcher**. How do you know there was a difference of 6 inches in the gaging, and how did you become aware of that difference?

Mr. **Kipp**. Because Hillius' gaging, when he came on the scene——

Senator **Melcher**. How did that come to your attention?

Mr. **Kipp**. I was listening to him.

Senator **Melcher**. To whom was he talking?

Mr. **Kipp**. He was talking to the FBI agent.

Senator **Melcher**. Was he talking to McCann?

Mr. **Kipp**. They were all involved in the discussion. The discussion was almost in a circle.

Senator **Melcher**. Did Agent McCann state that he thought there was a discrepancy in the gaging figure as presented by the truckdriver and Mr. Hillius?

Mr. **Kipp**. Not that I recall.

Mr. **Thomas**. Sir.

Senator **Melcher**. Yes, Mr. Thomas.

Mr. **Thomas**. The most significant point in this has not yet been brought to light. The significance is, these tests were run 5 days before, and the well of the tank was being produced into during this 5-day period. That could get your trigger upset, that could change your B.S. & W. content. It could, if the sun shines that day and did not shine the other days, it could change your temperature; it could change your B.S. & W.; your gravity could change. These figures that were put on there, were just handed down pat figures, standard of what it is, if they run three tests on it.

Senator **Melcher**. Well, just to keep this in the right sequence, Chuck, how much oil do you think was in that tank at the time the gravity was taken and all the rest of the figures? How much oil do you think was in there? We have not lost track of this.

Mr. **Thomas**. I am just making a guess; approximately half a tank, probably 150 barrels. The well produces about 20 barrels of oil a day, and there was a 5-day increment in there.

Senator **Melcher**. So, it could be another 100 barrels went in there.

I do not think we have lost track of the inconsistency of starting these documents at a time when there was only half the oil in there or maybe even two-thirds of the oil, or some portion of the oil. We have not lost track of that. We think the whole deal is so loose that this is just one phase of it.

But, it was not top gaged, and so, I believe, we are concentrating on that, trying to find out why there is a discrepancy between the top gaging that was done by the trucker and the bottom gaging that was done by the trucker and the one top gage done by Don Hillius, because he did bottom gage it. And we're trying to figure out whether indeed there was a discrepancy in that figure.

Can you contribute to that?

Mr. **Thomas**. I did not quite understand, sir.

Senator **Melcher**. We are trying to find out whether or not the trucker had a gaging figure that was, indeed, one in the same as Mr. Hillius had gaged it.

Mr. **Thomas**. Well, the truckers are not trained in gaging a tank, they have to have a gager preceding and following up. So how can we accept what they said as the top gage if they are not trained?

When we arrived there, the valves were positioned in such a manner as to allow the production to be going into the tank that he had just hauled the oil from. So the time in between the trucker gaging the tank and the gager getting there and gaging the tank, the well was being produced into. And, it was not sealed.

Senator **Melcher**. Now, wait a minute. Did Mr. Hillius know that? That is contrary to what we have been told.

Mr. **Thomas**. I pointed that out to Mr. Hillius right there on the catwalk.

Senator **Melcher**. That the valves had not been changed?

Mr. **Thomas**. The valves were positioned to where the production was going into the tank that had just had the oil hauled out of it, and the lock was not locked either, because I pointed that out to him, too.

Senator **Melcher**. The padlock was not locked?

Mr. **Thomas**. No, sir.

Senator **Melcher**. For which tank; both of them?

Mr. **Thomas**. The load line valve was tied to both tanks, sir.

Senator **Melcher**. So it was your observation that the valves that should have turned off the oil going into the other tank that was going to be drained, had not been turned off, and the production was still going into that tank?

Mr. **Thomas**. Yes. And that is going to change your bottom gage.

Senator **Melcher**. And the padlock was not on it?

Mr. **Thomas**. That is right, sir, it was not.

Senator **Melcher**. Was it just hanging there?

Mr. **Thomas**. It was just hanging there with a valve handle sitting on top of it. I pointed it out to Mr. Hillius and he, at that point, locked it.

Senator **Melcher**. This well is not too big of a producing well, I think there are about 20 barrels of production a day.

Mr. **Thomas**. I have been told by Ron Row, that it produces about 20 barrels a day.

Senator **Melcher**. The short time that was involved between when the truck left and when Mr. Hillius showed up, would not have produced any more oil in that tank than a fraction of a barrel, then?

Mr. **Thomas**. It would be very minimal, sir.

Senator **Melcher**. Because the difference in time is only about 1 hour.

Mr. **Thomas**. Yes, sir.

Senator **Melcher**. Did you witness the bottom gaging with Mr. Hillius?

Mr. **Thomas**. Yes, sir.

Senator **Melcher**. Are you sure it was accurate?

Mr. **Thomas**. Yes, sir. The point I was trying to get across, sir, is just that the entire operation from the start to the finish is totally—What would be a good word for it? It is sure improper.

Senator **Melcher**. Well, you used to work for the Geological Survey, did you not?

Mr. **Thomas**. Yes.

Senator **Melcher**. How many years?

Mr. **Thomas**. Four and a half, sir.

Senator **Melcher**. During that time, did you inspect oil wells for the oil production in Wyoming, or where?

Mr. **Thomas**. Wyoming, New Mexico, and Alaska.

Senator **Melcher**. Is it the general practice where you worked before, that you found run tickets with the trucks or not?

Mr. **Thomas**. There would be one with the truck and one with the operator. On Tuesday night, when Don Hillius got there, he had all three copies of the partially filled out run ticket.

Senator **Melcher**. Now, he did not have the operator's signature on it?

Mr. **Thomas**. Yes, sir, he had the operator's signature on it.

Senator **Melcher**. He did?

Mr. **Thomas**. He had Ron Row's signature.

Senator **Melcher**. What was the signature supposed to indicate?

Mr. **Thomas**. It indicates to me that he acknowledges the amount of oil that was sold.

Senator **Melcher**. No, no. He has described—well, maybe I should not say that—I am not trying to answer for you, but he has described the beginning of a run ticket; temperature, specific gravity, but no measurement. Did you see Ron Row's signature on it?

Mr. **Thomas**. I saw his signature on the ticket, yes, sir. I leafed through it to be sure that Ron Row had retained one in his possession, and he had not retained one.

Senator **Melcher**. There was no top gaging on it, was there?

Mr. **Thomas**. Not at that point, no.

Senator **Melcher**. When you were trained and worked for Geological Survey, did one of the run tickets remain with the operator and one with the trucker?

Mr. **Thomas**. One with the operator, the man in the field, and two with the trucker.

Senator **Melcher**. Did you want to say something?

Mr. **Ground**. Yes. I wanted to say that I came in after the transportation of the oil on the Tank Hill Farm. What I recall is that at the point that Mr. Hillius came onto the scene, he immediately got out of the truck and he was facing toward the truckdriver. The truckdriver was coming over here, and they began arguing with each other. It was something over some numbers. Now, at that particular point, I was trying to determine exactly the full extent of the situation. But I recall that they had some kind of a disagreement with numbers.

Senator **Melcher**. I want to thank you all very much, and I wish you would stay present. We may want to ask you additional questions.

First of all, I would like to ask Ron Row to return to the witness stand.

TESTIMONY OF RON ROW, PUMPER FOR WILLIAMS EXPLORATION

Ron, I would like to continue just as if you had not left the witness stand. You are still under oath.

We would like to pursue some of these points with you.

Mr. **Row**. OK.

Senator **Melcher**. First of all, you signed the run ticket?

Mr. **Row**. Yes.

Senator **Melcher**. As to the specific gravity, when you have no top gaging, how do you signify it was not top gaged?

Mr. **Row**. Well, we just have the understanding between us.

Senator **Melcher**. Between the two of you?

Mr. **Row**. That he would come back and get the top gage.

Senator **Melcher**. The specific gravity was there, the specific temperature and so on. Did you feel that that was going to be repeated or was not going to be repeated?

Mr. **Row**. I did not think it would change the quality of the oil that much, no.

Senator **Melcher**. Really, though, if you were going to come back and do it, why would you not do it all together? Why even bother?

Mr. **Row**. Well, it had been run once already.

Senator **Melcher**. Why even bother to take the specific gravity and the temperature if you are going to come back and top gage it, anyway? Why not do it all together?

Mr. **Row**. I was there, it was quicker.

Senator **Melcher**. Out of convenience. Who else has a key to this padlock?

Mr. **Row**. Just myself and Permean.

Senator **Melcher**. Just yourself and Permean?

Mr. **Row**. Yes.

Senator **Melcher**. Do you have an assistant?

Mr. **Row**. Yes.

Senator **Melcher**. Does he have one?

Mr. Row. No, I had just two keys. It is in my pickup, and he drove my pickup.

Senator Melcher. If he had your pickup, he would have the key?

Mr. Row. Yes.

Senator Melcher. Why would the padlock still be off?

Mr. Row. I have no idea; I was not there.

Senator Melcher. Would there be any circumstances where you would have the padlock off?

Mr. Row. None whatsoever.

Senator Melcher. Was Mr. Maroney interested in what the gaging had been?

Mr. Row. Oh, sure. We keep daily records of the production; how much was produced that day and the hours of production.

Senator Melcher. What does this well produce? Is 20 barrels about right?

Mr. Row. Well, it varies from 14 to 25. It is not a real consistent well.

Senator Melcher. From 14 to 25?

Mr. Row. Yes. You can look at those if you want to, sir.

Senator Melcher. No, that is all right, your testimony is fine. The question, then, is of the measurement. What did Mr. Maroney settle on for the measurement or what did you tell him the measurement was?

Mr. Row. I just knew what the top gage was that morning; which was 13 feet 7 inches. That well is intermittent itself, it does not produce steady. It might produce oil only 4 hours a day.

What Permean says was the top gage, fits in with what the well should produce in a given day.

Senator Melcher. Well, you had gaged it the day before?

Mr. Row. No, that morning. I gaged the wells every day.

Senator Melcher. That is right; you told us earlier that you did. Did your bottom gage check out pretty well?

Mr. Row. Right, with what Mr. Thomas and Mr. Hillius said.

Senator Melcher. Thank you very much, Ron. I do not know whether I have any more questions. We will be getting down to the tailgate here pretty soon.

I would like to have Mr. Miller, Mr. Lotvedt, and Don Hillius back. There are some points now that we would like to clear up.

TESTIMONY OF JOE A. MILLER, WESTERN OIL TRANSPORTATION CO., AND JERRY LOTVEDT AND DON HILLIUS, PERMEAN, INC. AND WESTERN OIL TRANSPORTATION CO.; ACCOMPANIED BY BOB CROTTY, COUNSEL

Jerry, I guess I will have to look back on this transcript after we have it to find out whether we heard about this padlock situation. Did you tell us to begin with that you unlocked the padlock?

Mr. Lotvedt. No, I did not.

Senator Melcher. You have a key which you carry when you are going to go to this lease?

Mr. Lotvedt. I have it in the truck all the time.

Senator Melcher. You had it in the truck all the time because you are the only one from Permean that is going to go there to get oil?

Mr. Lotvedt. Yes.

Senator Melcher. And are there any other keys that Permean has to the lease?

Mr. Lotvedt. Not to my knowledge.

Senator Melcher. Mr. Hillius, do you know?

Mr. Hillius. Ron gave me one key for each padlock, and I gave them to Jerry.

Senator Melcher. So, that is the only key. You, Mr. Miller would not have any either?

Mr. Miller. No.

Senator Melcher. You told us you changed the valves when you got there. Let's go through this.

You changed the valves first of all, to take the top measurement; is that right?

Mr. Lotvedt. Yes, I changed the valves to the other tank.

Senator Melcher. Then, you took the tank and gaged the top, filled your truck, and gaged the bottom. Did you write it down on the piece of brown paper that has been described?

Mr. Lotvedt. It is a tablet with my name on it and it has got a few lines down through it. It's just a tablet. I wrote it down on that.

Senator Melcher. Is it brown paper?

Mr. Lotvedt. Yellow.

Senator Melcher. Yellow paper like this?

Mr. Lotvedt. Yes.

Senator Melcher. Is that the paper that you showed that was described by Mr. John Murray?

Mr. Lotvedt. I do not follow the question.

Senator Melcher. He said it was a piece of brown paper that you showed to him with the figures written down, the top gaging and the bottom gaging. And that agent McCann——

Mr. Lotvedt. Yes, they were up there before anybody else got around, and I showed the representative of the tribe this.

Senator Melcher. And FBI agent Gunner McCann? Do you know him?

Mr. Lotvedt. I do not recall showing it to him. I do not recall whether I read the numbers to him or showed it to him.

Senator Melcher. You do not remember either way, whether he saw them or not?

Mr. Lotvedt. No; he said he saw them.

Senator Melcher. You mean Agent McCann, the FBI agent?

Mr. Lotvedt. No, the man who just testified.

Senator Melcher. But you do not recall whether Agent McCann saw them or not?

Mr. Lotvedt. No.

Senator Melcher. But you did change the valves so that production would go into the other tank. You top gaged first, then, took the oil, and then left, right?

Mr. Lotvedt. Then, got the bottom gaging.

Senator Melcher. Yes, got the bottom gage.

Mr. Lotvedt. And switched the valve back into the tank that I had just loaded.

Senator Melcher. Was the padlock still off?

Mr. Lotvedt. Generally, when I unlock my hose, I go shut the valve off. Well, I shut the valve off on the tank, and I come back and unlock my hose. It was raining at the time, so I could have forgotten to put the padlock on the valve, but I do not recall leaving it off.

Senator MELCHER. Mr. Hillius, Mr. Thomas has just stated that when he got there the valves were still open into the tank where the oil had been drawn off.

Mr. HILLIUS. Yes, that is what Jerry had just finished telling you; he switched back into it.

Mr. LOTVEDT. Yes.

Mr. HILLIUS. He switched right back into that tank, and that is where that comes from.

Senator MELCHER. Why would you do that, Jerry?

Mr. LOTVEDT. Yes. Well, I had 2 feet 2½ inches, and it is a very slow producer, anyway. And 2 feet is better than 1 foot, which I thought was in the other tank. So I would get a load a lot quicker, so I switched back into this tank. I did not know the other one—until it was discussed up on Tank Hill—that it had 5 feet or whatnot in it.

Senator MELCHER. But, doing that does not take away from the opportunity for bottom gaging by Mr. Hillius?

Mr. LOTVEDT. It is normal for me to get the bottom gaging at different times, as long as I gaged the top.

Senator MELCHER. How do you decide whether you or Mr. Hillius is going to take the bottom gage?

Mr. LOTVEDT. Sometimes, they asked me to get the bottom gage.

Senator MELCHER. Had you been asked?

Mr. LOTVEDT. Not on this particular one.

Senator MELCHER. So if you turned it back in there, it would be under the assumption that Mr. Hillius was not going to bottom gage it?

Mr. LOTVEDT. I did not know he was going to make it up there. He was supposed to have been there.

Senator MELCHER. Well, is my statement fair, then; it was your assumption that it was not going to be bottom gaged by Mr. Hillius?

Mr. LOTVEDT. It was not my assumption, I did not think about it. I thought about switching back into the tank that had 2 feet 2½ inches in it.

Senator MELCHER. It is obvious, then, that if Mr. Hillius did not show up there in the next 10 minutes, the bottom gage figure would not be correct; is that not true?

Mr. LOTVEDT. This is true.

Senator MELCHER. So it is a fair assumption that you did not expect Mr. Hillius to bottom gage that tank?

Mr. LOTVEDT. I never gave it a thought.

Senator MELCHER. You must have given it a thought that he was not going to. Is it not fair to say that?

Mr. LOTVEDT. Yes, it is.

Senator MELCHER. Because, he could not possibly make a correct bottom gaging with that oil pumping in there. Is that not true?

Mr. LOTVEDT. That is true.

Senator MELCHER. Now, Mr. Hillius, what did you think about this when you got there? The padlock was off; the valves were changed right back. What did that mean to you?

Mr. Hillius. Well, something was not right.

Senator Melcher. Something was wrong?

Mr. Hillius. That is one reason why I did not complete the ticket. I was going to check into it further, like I say, with Ron and Jerry so that everything would be right; not messed up.

Senator Melcher. When you arrived at the tank farm in Cut Bank, you had a gaging?

Mr. Hillius. I had the bottom gage.

Senator Melcher. When did you find out the figure that Jerry had?

Mr. Hillius. You mean for the top?

Senator Melcher. No, for the bottom?

Mr. Hillius. While we were up there.

Senator Melcher. I mean, at what point did you find out what he had for a bottom gaging? You know why we are asking you.

Mr. Hillius. He told me when I asked him.

Senator Melcher. What did he tell you, did he show you this tablet?

Mr. Hillius. No.

Senator Melcher. You never saw that?

Mr. Hillius. No, I did not see that.

Senator Melcher. He just verbally told you that he had—2 foot what, Jerry?

Mr. Lotvedt. It was 2 feet 2¾ inches. I said 2 feet 2½ inches before.

Senator Melcher. Two feet two and three quarter inches, 2 feet 2½ inches. And that is what he told you?

Mr: Hillius. Yes.

Senator Melcher. You did not see his tablet?

Mr. Hillius. No.

Senator Melcher. So, you do not know what he had written on it?

Mr. Hillius. No.

Senator Melcher. Did the FBI agent ask you about this?

Mr. Hillius. I do not recall if he did or not.

Senator Melcher. Was Gunner McCann, the FBI agent, that we have been talking about, was he there, did you recognize him?

Mr. Hillius. He was there, but Malyard was the one that was talking to me.

Senator Melcher. And he did not ask you about any figures?

Mr. Hillius. He just asked me about what they use and——

Senator Melcher. Yes. Then, he took whatever you had worked up on the run ticket at that time?

Mr. Hillius. He took the ticket at that time.

Senator Melcher. And down at the bottom, you had this figure?

Mr. Hillius. On the yellow copy, yes. I did not want to run it through blank because that goes through our computer.

Senator Melcher. And you wrote it only on the one copy; the yellow copy, at the bottom?

Mr. Hillius. Yes.

Senator Melcher. Why did you do that?

Mr. Hillius. I told you before, I had to check with Jerry and what gages he had. I was going to get with Ron, sit down, and figure out if they matched with his production.

Senator **MELCHER**. Did you ever get with Ron to match with the production?

Mr. **HILLIUS**. We did not have to; Jerry gaged it. It matched out with him, so we did not have to get together.

I talked to him that night on the phone about what he had and everything. We figured it was right.

Senator **MELCHER**. What Ron had?

Mr. **HILLIUS**. I figured that what Jerry gave me was right with what he had gaged that morning; it was 13 feet 7 inches.

Senator **MELCHER**. So he could only talk about the bottom, not the top?

Mr. **HILLIUS**. He stopped and checked the tank that night, and it matched up with ours.

Senator **MELCHER**. On the telephone, he told you that he stopped and checked the bottom gaging that night? What time of day was this?

Mr. **HILLIUS**. When I talked to him?

Senator **MELCHER**. Yes.

Mr. **HILLIUS**. Probably 8 or 9 o'clock, somewhere in there, when I talked to him, because I had to call him and tell him that.

Senator **MELCHER**. Was it still raining?

Mr. **HILLIUS**. No, not at that time.

Senator **MELCHER**. And it was still pumping oil into that tank?

Mr. **HILLIUS**. There was no oil going into that tank at that time.

Senator **MELCHER**. You changed it?

Mr. **HILLIUS**. No, I did not. But I met him down the road.

Senator **MELCHER**. Let's take this slowly because I am not sure I am following you.

Mr. **HILLIUS**. I had seen Ron down the highway. He had been to Browning to get groceries. It was his day off.

Senator **MELCHER**. What time was that?

Mr. **HILLIUS**. It was after Mr. Thomas left, I did not look at my watch to see exactly what time it was.

Senator **MELCHER**. Was it afternoon?

Mr. **HILLIUS**. Yes, it was afternoon. I was on my way back to Cut Bank.

Senator **MELCHER**. 4 o'clock?

Mr. **HILLIUS**. 3:30 or 4 o'clock; somewhere in there.

Senator **MELCHER**. Then, you said what you had found. Did you ask about the gaging?

Mr. **HILLIUS**. I asked him and he said he did not know other than what he had that morning.

Senator **MELCHER**. But you talked to him later that night and he said that in the interim he had taken the bottom gaging?

Mr. **HILLIUS**. And what Jerry had averaged out in his book.

Senator **MELCHER**. We have not pursued this point of the difference in gaging figures with the FBI. We think it is quite important, and I am not just doing this to prolong this inquiry.

I absolutely, in earnest, want to know whether there was a discrepancy in the gaging figures between you and Jerry. I absolutely want to understand each of you completely so that when we are through here today I will know that we understand each other. And that is, that gaging figure you took within minutes, within an hour after Jerry had left the lease with the load of oil, it measured

2 feet 2½ inches or 2 feet 2¾ inches. That is, the gaging figure that you wrote down on the yellow copy of that run ticket?

Mr. HILLIUS. That is the one that Mr. Thomas and I witnessed, the 2 feet 2½ inches.

Senator MELCHER. And there is no argument about that?

Mr. HILLIUS. No.

Senator MELCHER. So the question then comes, why a different figure, 2 feet 2¾ inches or 2 feet 8½ inches that Jerry wrote down when he gaged it?

Mr. HILLIUS. I do not know whether the tribal members showed it to me that he had it wrote down. That is all I can tell you on that. I do not know what it was.

Senator MELCHER. And what did he tell you?

Mr. HILLIUS. He showed me that he had it down at 2 feet 2¾ inches.

Senator MELCHER. That he got that figure from Jerry?

Mr. HILLIUS. Now, that is what he told me he got from Jerry; I do not know.

Senator MELCHER. When he showed you that, had you talked to Jerry?

Mr. HILLIUS. I talked to him before that.

Senator MELCHER. You did not look at any figure he had written down; you just took the figure he had in his head. Did it occur to you that he should have had it written down somewhere?

Mr. HILLIUS. Well, I think that the FBI had the ticket and the slip at that time, and I did not see it.

Senator MELCHER. You mean this slip?

Mr. HILLIUS. He had that, and he had a brown or yellow piece of paper, whatever you want to call it.

Senator MELCHER. Oh, he did have that?

Mr. HILLIUS. I do not know. I presume he did but I did not see it.

Senator MELCHER. Had you heard about a piece of paper at that point?

Mr. HILLIUS. No.

Senator MELCHER. So when you talked to Jerry, you said, "I want to check out this gaging figure. What was your top gaging figure?" Jerry rattles it off without looking at any paper; is that what happened?

Mr. HILLIUS. He may have had it in his hand; I do not recall.

Senator MELCHER. You do not recall?

Mr. HILLIUS. I did not see the paper, is all I am telling you.

Senator MELCHER. Do you know that he read it off of something?

Mr. HILLIUS. No, I do not.

Senator MELCHER. So as far as you know, he just had it in his head; is that right?

Mr. HILLIUS. As far as I know.

Senator MELCHER. Don, I want to understand this perfectly. You asked him what the figures were, knowing that it involves quite a bit of oil?

Mr. HILLIUS. Right.

Senator MELCHER. You asked him what the figures were and you assumed he had it in his head?

Mr. HILLIUS. Must have.

Senator MELCHER. I am asking you. Did you assume that? Is that the way you generally do it?

Mr. HILLIUS. I figured he told me out of his head, yes, but he has always got it wrote down somewhere. I just did not see the paper at that particular time.

Senator MELCHER. And he did not read it off of anything?

Mr. HILLIUS. Not that I recall. He might have had it in his hand, and I do not recall.

Senator MELCHER. Jerry, you tell me. I want to understand your side of this perfectly, too. You had it written down on your tablet?

Mr. LOTVEDT. Yes.

Senator MELCHER. And yet, you told him just off the top of your head what was on the tablet?

Mr. LOTVEDT. Well, the conversation up there—we were talking about the top and bottom gaging with everybody that was concerned with it.

Senator MELCHER. Yes, but you are the only person who had the top gaging?

Mr. LOTVEDT. Yes.

Senator MELCHER. What did you tell them?

Mr. LOTVEDT. I told them that.

Senator MELCHER. You did not look at your piece of paper or anything?

Mr. LOTVEDT. After you talk about it for 2 hours, I would think I could remember.

Senator MELCHER. I can agree with that.

Mr. LOTVEDT. But, I do not recall whether I gave Joe Miller the piece of paper when he came up there or whether it was given to him.

Senator MELCHER. We are talking about what happened before Joe Miller arrived there, right?

Mr. LOTVEDT. No.

Mr. HILLIUS. I arrived after Joe.

Senator MELCHER. What time did you arrive there?

Mr. HILLIUS. I did not look at my watch. Joe was already there, and all the other people were already there when I got there. I was the last one there.

Senator MELCHER. When did you leave the lease; before or after Mr. Thomas did?

Mr. HILLIUS. After.

Senator MELCHER. Long after?

Mr. HILLIUS. Oh, just a few minutes because I put a seal on the tank and then I left.

Senator MELCHER. Well, he arrived there at 4:15.

Mr. HILLIUS. Where does he arrive at 4:15; at the lease?

Senator MELCHER. No, I assume in Cut Bank.

Mr. HILLIUS. I do not know what time he arrived. I do not know what time any of them arrived, because they were all there when I arrived. It was probably 5:30, somewhere in there. I am not positive; 6 o'clock.

Senator MELCHER. It was about 6 o'clock. Did you go directly there?

Mr. HILLIUS. Yes.

Senator MELCHER. From the lease?

Mr. Hillius. I went to 111, then, I went directly up on the hill.

Senator Melcher. How long would it take you at well 111?

Mr. Hillius. I was probably there only about 5 minutes.

Senator Melcher. The time sequence?

Mr. Hillius. Before I left for the tank, because it is probably a matter of 30 minutes.

Senator Melcher. We have the time sequence, whether it is accurate or not, I am not sure. But, it is probably accurate that Special Agent LaFontaine and Agent Wayne Malyard arrived at the tank farm around 3:45; before 4 o'clock. And Jerry, you arrived there about 2 o'clock?

Mr. Lotvedt. I do not recall just what time it was; I think it was around 3.

Senator Melcher. So you had already shown the figures to Joe by the time Don got there; is that right?

Mr. Lotvedt. Yes.

Senator Melcher. Joe, what did you see of those figures?

Mr. Miller. Thirteen feet eight and three-quarters inches.

Senator Melcher. Written on the tablet?

Mr. Miller. Right.

Senator Melcher. Described as a yellow or brown?

Mr. Miller. It was on a yellow piece of paper with his name on the top.

Senator Melcher. When you were asked what a difference of 6 inches in measurement would mean in amounts of oil, what did you think of that question? Did you think there had been a discrepancy in the figure? Were you aware there had been a discrepancy in the figure?

Mr. Miller. He had shown me the figure he had, and I figured it was right. I told him I did not know. I know that I gaged it, and that is all I could do. Where that came from, I could not say for sure.

Senator Melcher. So you were not sure there was a discrepancy in the figure or a difference of opinion what that figure was?

Mr. Miller. I did not know. Maybe he read it wrong or heard him wrong; I do not know.

Senator Melcher. Was it before or after the question was asked of you that you talked to Jerry?

Mr. Miller. It was after.

Senator Melcher. Based on review of the statute, notwithstanding USGS officials, that a run ticket is required for any movement of oil, has Permean talked to USGS officials about this, Bob?

Mr. Crotty. Have they talked to USGS about it?

Senator Melcher. Yes, in the last few days?

Mr. Crotty. I am not familiar with whether they have or not. I am basically talking about research that I have done.

Senator Melcher. Was it research you have done principally with the Connolly Act?

Mr. Crotty. It was all of the information that I have available here in Great Falls. And at times, I have called your staff for information, and information I have asked Permean's department about.

Senator Melcher. What does Permean's legal department think about all this?

Mr. **Crotty**. It was my impression in my discussions with them, and the information that I had been able to gather, that they are meeting all the requirements of the USGS. They are not aware of anything that they are not requiring.

And the information I have looked at, I could not see where this requirement about a run ticket being in the truck came into existence. There seems to be a misconception on that. I could not find anything that was available to me that there has to be a run ticket in the truck.

Senator **Melcher**. We will ask GS, again. Maybe they will clarify that now.

It is certainly inconsistent with all other transfers of property by truck, if you do not have to show the ownership of the load. Can you think of any other examples to give me?

Mr. **Crotty**. Well, the ticket that was furnished in compliance with the DOT. All DOT regulations shows, and it shows ownership. I would compare it to private carriers, when you are carrying your own property. What do you have to show that you are carrying your own property.

Senator **Melcher**. A bill of sale, if you are asking me. If I carry my own cattle, I have a brand inspection or I have a brand registered to me. I can think of other examples.

Mr. **Crotty**. I think, Senator, we both know there is a State statute that requires that, but I cannot find anything in either State or Federal regulations that requires a run ticket to be on the truck.

I can see a lot of times where the run ticket is not going to be on the truck. Many times the tank involved could be much larger than a 400-barrel tank. It could be 2,000- to 3,000-barrel tanks. And there could be a couple of trucks going out, that are all hauling oil from the tank into the place where it goes into the pipeline. The first truck probably would not have the ticket or the second truck would not, maybe the third truck would have. I can see a lot of examples.

Senator **Melcher**. I am not going to get into that. It is contrary to what we have been told by GS. We will let them answer that.

But, I think you would agree, Bob, and I think Permean would agree, there is no question but that moving the oil before it was properly gauged and the other parts of the run ticket were properly identified, was not only irregular, it violated the very essence of the regulations at GS, and therefore, the law. We do not have any argument about that, do we?

Mr. **Crotty**. They have changed their procedure there about run tickets.

Senator **Melcher**. No, I am going to be more basic than this. There was no top gaging taken on this oil by the ordinary gager. If Permean and the owner of the oil, prior to Permean's purchase, are willing to have the trucker do it, then, we will look at that, and we will look at what GS says because they have a little different responsibility entirely.

But nevertheless, there is no question about understanding GS's regulations, even setting aside whether the run ticket is on the truck or not. There was not a proper run ticket established here because the gravity of the oil, the temperature and the other measurements, other than just gaging, had not been done at the right time. It was not done when the oil was transported.

So, I do not think there is any argument.

Mr. Crotty. No, I am not attempting to argue that point.

Senator Melcher. No, I want Permean to agree. I want more than that, Bob. That Permean is agreeing that this was not only irregular, it was contrary to GS's regulations, setting aside the question of whether the run ticket should have been in the truck or not.

Mr. Crotty. I am not familiar with the regulations as they relate to specific gravity——

Senator Melcher. I think we are going to establish that in this inquiry from GS. We have not passed over this point very lightly, the committee has taken note.

I took note in my head, the first time I heard about this, that the temperature, all this data that was to be collected and was collected, to start the run ticket, was done on Thursday, while the oil was still coming into this tank. So, the procedure for getting accurate information on specific gravity and on temperature and other things was not followed there, setting aside the point of the top gaging, because the oil kept coming into the tank from Thursday until it was picked up on Tuesday.

Now, the discrepancy that comes up in this entire investigation that the FBI has talked to me about—about the difference in the gaging—bothers me. It bothers me, because incidents of this type have been reported numerous times from the oil patch, to use you fellows' term, and that is the way that oil disappears.

I am not saying that that is the case here, but it bothers me that the gaging figure really is not clear.

Mr. Hillius. In this particular case, the 6-inch difference, would be in their favor.

Senator Melcher. Pardon me; in their favor?

Mr. Hillius. Sure, to the tribe's favor.

Senator Melcher. To the tribe's favor. How about the owner of the oil, other than the royalty? How about the owner, whose favor is that?

Mr. Hillius. It is his favor, too. He sold more oil. According to what they are saying 2 feet 8¾ inches to 2 feet 2 inches, gives them another 10 barrels of oil, so where do they figure they are—they benefited out of it, if that figure is right.

Senator Melcher. It should be the same though, should it not?

Mr. Hillius. Yes.

Senator Melcher. It should be exactly the same?

Mr. Hillius. If they think that they are getting hurt by having this bigger top gauge, they are not; they are benefiting by the higher one.

Senator Melcher. Yes, they would benefit by the lower one.

Mr. Hillius. Right.

Senator Melcher. What if it had gone in with the upper one?

Mr. Hillius. Then, Ron would have been screaming when he did his books.

Senator Melcher. Yes. That is what I am thinking. What if they had gone in with the upper one and somebody had 10 barrels of oil?

Mr. **Hillius**. No, Ron would have been screaming he was short 10 barrels of oil, and we would have to make a correction on it.

Senator **Melcher**. If Ron had measured it, and if everything was perfectly legit, he would be screaming if he measured and everything.

Mr. **Hillius**. Sure, he can tell you when he does his books.

Senator **Melcher**. And everything would have been right?

Mr. **Hillius**. I am not saying that everything would have been right. I said if everything—you know, if he measured it and everything, came along, and straightened out the figures and everything.

Senator **Melcher**. Well, you have worked around the oilfields a lot, haven't you, other than here, Mr. Hillius?

Mr. **Hillius**. Yes.

Senator **Melcher**. You have heard of oil thefts before, haven't you?

Mr. **Hillius**. I have heard of it.

Senator **Melcher**. And the same with you, right, Joe?

Mr. **Miller**. Yes.

Senator **Melcher**. You have worked around oilfields other than here?

Mr. **Miller**. Yes, but I have never heard of anybody stealing oil.

Senator **Melcher**. How long have you worked around it?

Mr. **Miller**. Fifteen years. Well, it would have been 15.

Senator **Melcher**. You have been mostly up here?

Mr. **Miller**. Yes.

Senator **Melcher**. We hear about it all the time. We do not know what truth there is to it. We just hear about it. Skim a little bit here, and skim a little bit there. I am not saying that you do that, forgive me, but people do that.

And in oilfields, all we are trying to do is figure out what GS should be doing. And, doing it right, so that all this talk can disappear. And if there are a lot of oil thefts going on, it will stop. There will not be any more. That is what we are really trying to do. It bothers me about this discrepancy.

You have been helpful to us, and I am still going to ask you to stick around a little bit longer. I am sorry to keep you here this long.

I would like to talk to Ron Row for one more question. Ron, may I have one more question?

TESTIMONY OF RON ROW, PUMPER FOR WILLIAMS EXPLORATION

Senator **Melcher**. Ron, I did not understand you to gage that tank that same day—bottom gage it?

Mr. **Row**. Oh, sure, I gage tanks every day.

Senator **Melcher**. No, that same day?

Mr. **Row**. Yes, yes.

Senator **Melcher**. You did go back later on that afternoon and bottom gage that tank?

Mr. **Row**. And, I turned the oil out into the other tank.

Senator **Melcher**. I just did not understand that from what you told us before. But you had gone back to bottom gage it that same afternoon?

Mr. Row. Right, after I talked to Don Hillius. I transferred the oil into the tank that it should have been in the first place.

Senator **Melcher**. And did you tell me that you told Jim Maroney, your supervisor, that there had been some flak over the two gages, the top gaging and the bottom gaging?

Mr. Row. No, I did not even know there was a controversy until right now.

Senator **Melcher**. You had not heard about it?

Mr. Row. Not a word.

Senator **Melcher**. So the only thing that James Maroney was really upset about was that you had not been there at the top gaging?

Mr. Row. Right.

Senator **Melcher**. Did he worry about starting this run ticket ahead of time when the oil was still coming in?

Mr. Row. He was upset with me about that. I did not really feel it would have changed the market value of the oil.

Senator **Melcher**. But the two points he was upset about was that you had started it before the oil was all in the tank, and the temperature, specific gravity, et cetera were taken before that, and then, the top gaging? Are those the two points he was upset with you about?

Mr. Row. Right.

Senator **Melcher**. And the bottom gaging, you had told him you had done it that afternoon and he agreed with what Thomas and Hillius had done?

Mr. Row. Yes.

Senator **Melcher**. Thank you very much.

We should hear from Richard LaFontaine. Did I pronounce that correctly?

Mr. **LaFontaine**. Yes.

Senator **Melcher**. Are you accompanied by Ted Hall? Please remain standing.

[Richard LaFontaine and Ted Hall, being first duly sworn, testified as follows:]

TESTIMONY OF RICHARD LaFONTAINE AND TED HALL, INVESTIGATORS, BUREAU OF INDIAN AFFAIRS

Senator **Melcher**. Do you agree pretty much with the sequence of events that have been described here?

Mr. **Hall**. Yes, we do.

Senator **Melcher**. Are you familiar with the difference in the two figures for the bottom gaging?

Mr. **LaFontaine**. At the time this happened, I overheard some conversation. And this was, basically with Wayne Malyard. Agent Wayne Malyard, I believe, was talking to Mr. Miller and Mr. Hillius. I do not know which one he was talking to exactly, but there was some discussion or some discrepancy on the gaging, I believe.

But, I can not speak for them. I do not know what exactly.

Senator **Melcher**. Who was the conversation between; Mr. Hillius and Mr. Malyard?

Mr. **LaFontaine**. Mr. Malyard and Mr. Miller, I believe.

Senator **Melcher**. Is he the senior FBI agent of the two?

Mr. LaFontaine. Wayne Malyard is.

Senator Melcher. Wayne Malyard and Mr. Miller?

Mr. LaFontaine. Yes.

Senator Melcher. What did you hear them say?

Mr. LaFontaine. That is what I am just saying, Senator, I do not know exactly. I was talking to Mr. Thomas at that time, and I just more or less overheard the casual conversation.

But at that time, as far as my part goes, I believe, I asked Mr. Miller—What we have here really, what we are trying to establish, the FBI agents and myself, when we first got there, since this was new to all three of us, was exactly to establish whether it was an oil theft or not. This is what we were trying to establish because our role in this matter basically was to investigate an oil theft if one had occurred. And we were trying to establish how to go about trying to investigate an oil theft, since this was the first time we were facing the situation.

Senator Melcher. Well, are you saying that the question was whether the whole tank was an oil theft?

Mr. LaFontaine. That is correct.

Senator Melcher. Did it occur to you that if the amount of oil that was represented to be on the truck was inaccurate, that it could have been a partial load of the oil that was being stolen?

Mr. LaFontaine. Yes.

Senator Melcher. That was a possibility, too?

Mr. LaFontaine. That is correct.

Senator Melcher. So that would make it relevant, then, to know what the gaging was?

Mr. LaFontaine. That is correct. But like I am saying, this was the first time that we had ever—any of the two agents and myself—had ever heard of gaging. In other words, that day when we arrived there at the scene, the hill tank, where they stored the oil, until further distribution——

Senator Melcher. Did you ask what the gaging figures were?

Mr. LaFontaine. I, myself, did not, no.

Senator Melcher. You were present when somebody else asked?

Mr. LaFontaine. Yes.

Senator Melcher. Who was that, who asked?

Mr. LaFontaine. I believe Mr. Malyard asked.

Senator Melcher. Mr. Malyard?

Mr. LaFontaine. Yes, the senior FBI agent.

Senator Melcher. Was this the conversation you are speaking of with Mr. Miller?

Mr. LaFontaine. Yes.

Senator Melcher. In which you really did not overhear the conversation, so you really can not tell us anything that was said?

Mr. LaFontaine. No.

Senator Melcher. But had it been discussed with the driver, in your presence, what he had gaged?

Mr. LaFontaine. Not in my presence, no.

Senator Melcher. You were not on the lease itself?

Mr. LaFontaine. No.

Senator Melcher. So your presence and your part in this investigation was in Cut Bank itself, where the oil was received?

Mr. LaFontaine. That is correct.

Senator **Melcher**. What time did you get there, about the same time as——

Mr. **LaFontaine**. Agent Malyard and myself arrived at the same time.

Senator **Melcher**. McCann had been there before?

Mr. **LaFontaine**. He had been there previously. Malyard called him on the air and also on the telephone, and asked him to go up there and stop the truck until we arrived.

Senator **Melcher**. Did McCann talk to you at all about this gaging figure?

Mr. **LaFontaine**. No.

Senator **Melcher**. And you did not talk to the trucker yourself?

Mr. **LaFontaine**. No.

Senator **Melcher**. What is your duty for the BIA, in this instance?

Mr. **LaFontaine**. Well, the agent, special officer, or the supervisor of criminal investigators for the Bureau of Indian Affairs. And, of course, my main duty is investigation of 14 major crimes, Federal crimes as well as various tribal misdemeanors.

Senator **Melcher**. Have you been instructed in anyway that part of your duties would be for protection of property?

Mr. **LaFontaine**. Property?

Senator **Melcher**. Property of the tribe or property of the Indian allottee?

Mr. **LaFontaine**. That is correct.

Senator **Melcher**. That is part of it. Is there a question about your jurisdiction in this matter? You would have jurisdiction over protection of that property of the allottee?

Mr. **LaFontaine**. That is correct, as I understand it; it is a Federal jurisdiction.

Senator **Melcher**. In this instance the property is off the reservation and off the lease. And this would be the key part. Your jurisdiction would supersede any jurisdiction of the Geological Survey, would it not?

Mr. **LaFontaine**. I do not really know what their duties are at this point, so——

Senator **Melcher**. There is really not much of an interaction or coordination about whose responsibility is what?

Mr. **LaFontaine**. That is right.

Senator **Melcher**. It is our understanding that the responsibility of the Geological Survey ends at the lease line, either on Federal or Indian leases.

Mr. **LaFontaine**. I believe that is the way it was explained to me once.

Senator **Melcher**. It would seem that your jurisdiction would extend out this far.

I do not have any more questions of you at this time.

Mr. **Woodcock**. I have just one question.

Given the nature of this kind of an offense, you might come into instances where you suspect a theft has taken place and you might be in, say for example, hot pursuit of a truck full of oil which you suspect to be stolen. Do you have any kind of arrangement with the FBI whereby they can pick up where your jurisdiction leaves off, when that truck leaves the reservation?

Mr. **LaFontaine**. Well, we do not really have any kind of special arrangement. I think it is just common knowledge and standard procedure that the FBI, we work hand in hand. And of course, their jurisdiction also extends off the reservation.

I think in this case, we are talking about the point of origin. If in fact there was an oil theft, the point of origin would have been on the reservation, so it would have been a Federal matter.

But to answer your question, yes, if I would have reported that they took the oil to, say, even out of State, say, that same truck would have went into Wyoming or someplace, I do not think there would have been any question but that the FBI would have picked it up down there. The jurisdiction of Federal regulations is continuous.

Mr. **Woodcock**. Even though off the reservation, your jurisdiction would apply because it would involve a Federal crime committed on the reservation?

Mr. **LaFontaine**. Yes.

Mr. **Woodcock**. Thank you very much, both of you.

Senator **Melcher**. Now, we will hear from the Geological Survey, Do we have Terry Messerli and Jim Sims? Also, is Tom Richmond here?

Good. We will use the same procedure.

[Terry Messerli, Tom Richmond, and Jim Sims, being first duly sworn, testified as follows:]

TESTIMONY OF TERRY MESSERLI, TOM RICHMOND, AND JIM SIMS, U.S. GEOLOGICAL SURVEY

Senator **Melcher**. Now, Terry, this incident happened on Tuesday, July 28, and I talked to you on Thursday. As I understand it that was the first time you had been involved. You had arrived on the scene by way of a helicopter. That was when you were briefed on what occurred here in this incident.

We have testimony that says that a run ticket is necessary with the truck. What is your feeling now, since your lawyers seem to be in doubt?

Mr. **Messerli**. That is it. That is what I was told, too. And I was to go along with that and I had to go along with it during—since October. This interpretation is not mine. They provide me with the interpretation that they feel is necessary.

Senator **Melcher**. What is your interpretation, now, and what was it before, now?

Mr. **Messerli**. Well, I feel that my interpretation was that the run ticket had to be provided to the supervisor, if the supervisor required it; that's 30 C.F.R.

Senator **Melcher**. Supervisor of what?

Mr. **Messerli**. Excuse me. The oil and gas supervisor, which has changed since the 30 C.F.R. was written. It is now the Deputy Conservation matter, not the oil and gas supervisor of the C.F.R.

Due to the variations and so forth, we were more or less forced into the field with enforcing this type of an application that the run ticket had to be on the truck, which is rather difficult to work with because in most cases, the pumper has a copy, the purchaser has a copy, and the trucker has a copy. And, if I'm not there to gage the tank, I want a copy. We have to have four copies, and that is not that easy to do out there. So it was a rough regulation, and it was rough to enforce.

Senator **MELCHER**. Were you present at the hearing in Washington on April 6?

Mr. **MESSERLI**. Yes, sir.

Senator **MELCHER**. Then you heard Mr. Curtis testify. Normally you would expect the driver to have a run ticket, but there could have been a case where he could have completed the run ticket and left it at the battery, at the tank.

So, what you are saying is that the run ticket ought to be available to the seller of the oil?

Mr. **MESSERLI**. It should be available upon request by the oil and gas supervisor, 30 C.F.R. says 5 days.

Senator **MELCHER**. What is your opinion on where the run ticket is supposed to be at the time the oil is transported? That is what we are talking about.

Mr. **MESSERLI**. I think that the purchaser and the seller must have a copy of the run ticket.

Senator **MELCHER**. So what do you think about this instance, when the run ticket was not made up and the oil left, and nobody had a copy of it?

Mr. **MESSERLI**. Well, I believe the purchaser had a copy of that run ticket.

Senator **MELCHER**. The purchaser had a copy of the run ticket?

Mr. **MESSERLI**. Permean, I mean.

Senator **MELCHER**. Permean had a run ticket?

You were here at this testimony and you tell me who had the run ticket?

Mr. **MESSERLI**. The run ticket that the FBI confiscated was Permean's.

I do not know.

Senator **MELCHER**. Who had it?

Mr. **MESSERLI**. The gager.

Senator **MELCHER**. Was it the completed run ticket?

Mr. **MESSERLI**. One was, the other one was not.

Senator **MELCHER**. Which one was?

Mr. **MESSERLI**. 111, was completed, but 1-3 was confiscated.

Senator **MELCHER**. Who had the 111 that was completed?

Mr. **MESSERLI**. The FBI. I got copies of it from the FBI.

Senator **MELCHER**. Where did they get it?

Mr. **MESSERLI**. The gager.

Senator **MELCHER**. They got it from Mr. Hillius? He testified today that it was not completed. Where did you come up with that, that it was completed?

Mr. **MESSERLI**. I have a completed copy of a run ticket back in my office for 111, and 1-3 was without the top gage.

Senator **MELCHER**. Yes. What does 111 say on it? What did this form on 111 say, and when did you get it?

Mr. **MESSERLI**. I got that run ticket on Friday, July 31, when I went back.

Senator **MELCHER**. What did it say?

Mr. **MESSERLI**. You mean as far as the gage and this type of thing?

Senator **MELCHER**. Yes.

Mr. **Messerli**. Well, see the top gage was 13 feet something and the bottom was 2 feet something. All I have established was the fact that the whole tank had to be gone, period. That was 111; 1-3 did not have—it had a "1" written up there where the start of the top gage goes. That is all.

Senator **Melcher**. So you couldn't tell anything from those, could you?

You did not know from what you were looking at on the face of it. Whether it would have been top gaged that day; that the specific gravity was taken; the temperature was taken; all that data was taken? You did not know that, did you?

Mr. **Messerli**. No.

Senator **Melcher**. What is your opinion about a run ticket on July 28 that did not have any information on it and that was based on the temperature and the specific gravity taken 5 days previous? Would you call that a legal run ticket on the basis of GS regulations?

[No response by the witness.]

Senator **Melcher**. Mr. Sims, what is the answer to that?

Mr. **Sims**. Legally, that is a very hard question.

Senator **Melcher**. You just tell me what the regulations are, and then we will tell you what the law is. What do your regulations say?

Mr. **Sims**. The regulations require accurate measurement prior to sale.

Senator **Melcher**. Prior to what?

Mr. **Sims**. Prior to sale.

Senator **Melcher**. Five days prior to sale?

Mr. **Sims**. It does not specify.

Senator **Melcher**. Does it say that the regulations are so loose that you can take this 5 days ahead of time—the specific gravity on an unknown quantity of oil—and keep pumping into it 5 days; is that what the regulations say?

Mr. **Sims**. I do not think that is the intent of the regulations.

Senator **Melcher**. They do not say that, then, do they?

Mr. **Sims**. No.

Senator **Melcher**. What do you mean by "intent," then?

Mr. **Sims**. The regulations are just moot on pinning down a definite period of time.

Senator **Melcher**. What do you think the law says?

Mr. **Sims**. I think the law says it will be accurately measured.

Senator **Melcher**. You mean it would be inaccurate if it were 5 days? Is there really a difference if you do not take the specific gravity on the oil you are going to sell?

Mr. **Sims**. There could be, yes.

Senator **Melcher**. Was Mr. Maroney wrong to chastise his employee, Mr. Row, for something that started 5 days ahead of time?

Mr. **Sims**. No, he wasn't.

Senator **Melcher**. Then, what does the law mean?

Mr. **Sims**. I believe the law means what a reasonable person would do to measure that oil accurately.

Senator **Melcher**. Was 5 days reasonable?

Mr. **Sims**. I do not believe so.

Senator **Melcher**. I was going to ask you if you thought 5 days, or whether you thought 10 days was reasonable?

Mr. **Sims**. I do not believe that either.

Senator **Melcher**. As a matter of fact, this whole deal was wrong, wouldn't you say that, now, Mr. Messerli? That this run ticket was a fictitious run ticket in that it really does not cover what the law requires?

Mr. **Messerli**. Senator, when I arrived at the FBI office, I could not determine whether or not it was a fictitious run ticket. I had the signature of the purchaser and the signature of the owner.

Senator **Melcher**. No, I am not asking you to make that judgment.

Mr. **Messerli**. That is what I have to judge about.

Senator **Melcher**. I am not asking you to make that judgment based on what you knew then. I am asking you to make a judgment based on what you know now.

Mr. **Messerli**. From what I heard today, I think there seems to be a little bit of discrepancy on whose responsibility it is.

Senator **Melcher**. I am not asking you that, Terry. I am asking you to make a judgment, now, whether this was a fictitious run ticket?

Mr. **Messerli**. I can not make that decision, sir.

Senator **Melcher**. What would you describe this run ticket, then. Maybe that is a poor term. What could you describe this run ticket as being, just inaccurate?

Mr. **Messerli**. I can not say it is inaccurate, either. I mean, if they had 13 feet 8 inches and the seller and the purchaser say that is what they have, I can not say that is an inaccurate statement.

Senator **Melcher**. All right. You are going to accept their figures on that?

Mr. **Messerli**. I have to.

Senator **Melcher**. But setting that aside, since the run ticket covered the specific gravity, the temperature, and the other data on the oil prior to the time it was in the tank, and on a different day, with oil coming in afterwards, what does this mean?

Mr. **Messerli**. That is wrong, I will agree with you.

Senator **Melcher**. That is what I am asking about. That is what we have been talking about. It is wrong.

Now, what kind of a run ticket——

Mr. **Messerli**. It is wrong, yes.

Senator **Melcher**. It is an inaccurate run ticket?

Mr. **Messerli**. Are you asking me to judge a run ticket from what I have heard in testimony today or what you——

Senator **Melcher**. Yes, on the sworn testimony today.

Mr. **Messerli**. Yes, I would have to say that it is a poor quality run ticket, although, I do not think——

Senator **Melcher**. I do not like this term "poor quality." I want to know whether it was wrong or right.

Mr. **Messerli**. OK, it is wrong.

Senator **Melcher**. Now, it is wrong because the information was not collected at the right time; is that correct?

Mr. **Messerli**. Correct.

Senator **Melcher**. So therefore, the information may not be correct on the run ticket. What do we do about this?

Mr. **Messerli**. Senator, all I can say is that when I get out to witness a run ticket, if it has the information on it; the purchaser's signature and the seller's signature, I do not have much alternative but to accept the thing.

Senator **Melcher**. I am not asking you that. We know it is wrong. Now, what do we do about it?

[No response by the witness.]

Senator **Melcher**. What do we do about it, Mr. Sims?

Mr. **Sims**. Hopefully, we change our procedures to see that it does not happen again.

Mr. **Messerli**. How can we change our procedures to see that it does not happen again? That means that we have to have one person on every tank battery in this State and North Dakota to watch every gaging made to make sure that it does not happen again. I am not saying that every operator sitting out there in the field is doing it this way, either. I am saying maybe a small percentage.

But that still does not eliminate somebody being there to witness and question their integrity.

Senator **Melcher**. There are lots of ways of enforcing the law. Everybody that is involved in it has to take proper action to make sure the law is enforced.

Let's establish first of all whether we are satisfied, Mr. Messerli, about what the law requires. We will get into this part about whether it should be on the truck, later.

But do you agree that the law is as Mr. Sims has described?

Mr. **Messerli**. Yes, I believe there is a right way to measure oil. It has been set down by the American Petroleum Institute, and any deviation from that is wrong, period. That is the law we go by. And we ought to refer to A.P.I. standards for measuring and gaging the run.

Senator **Melcher**. We have gone over this a number of times with you directly, Mr. Sims, as well as Dr. Kash and the other people representing the survey. But since your regulations require this, you also have some penalties or enforcement procedures. What are those?

Mr. **Sims**. On trial by law, in this instance? Are we talking about this particular instance?

Senator **Melcher**. Yes, or any particular instance like this.

Mr. **Sims**. The penalty would follow in the proper 30 C.F.R. That ranges anywhere from just an issuance of a noncompliance——

Senator **Melcher**. Have you issued that incidence of noncompliance, Terry?

Mr. **Messerli**. I issued a verbal noncompliance to Mr. Ron Row and Mr. Maroney.

Senator **Melcher**. Have you done any more?

Mr. **Messerli**. I was going to write a written one until I found out a new interpretation of 30 C.F.R. concerning run tickets aboard trucks.

Senator **Melcher**. When did you find that out?

Mr. **Sims**. Friday.

Mr. **Richmond**. Friday.

Senator **Melcher**. This past Friday?

Mr. **Messerli**. Yes. I had to go back to the Blackfeet. Yes, that would have been Friday, the 31st.

Senator **Melcher**. You mean Friday the 31st or this past Friday?

Mr. **Messerli**. The 31st. It started on the 28th. It would have been July 31.

Senator **Melcher**. How did you find that out?

Mr. **Messerli**. My boss told me.

Senator **Melcher**. Mr. Sims told you?

Mr. **Messerli**. Mr. Richmond told me.

Senator **Melcher**. How did you find out about it, Mr. Richmond?

Mr. **Richmond**. Mr. Sims and I talked about it.

Senator **Melcher**. How did you find out about it, Mr. Sims?

Mr. **Sims**. I researched the regulations, the law on it.

Senator **Melcher**. Talked to you solicitors back there in Washington?

Mr. **Sims**. No.

Senator **Melcher**. Talked to anybody in Reston?

Mr. **Sims**. No, not at that time.

Senator **Melcher**. Have you talked to them since then?

Mr. **Sims**. Yes, sir.

Senator **Melcher**. About that matter?

Mr. **Sims**. Yes.

Senator **Melcher**. And what did they tell you?

Mr. **Sims**. They told me their personal recommendations to it.

Senator **Melcher**. They have not passed judgment on it?

Mr. **Sims**. Not to my knowledge.

Senator **Melcher**. So what are your recommendations going to be?

Mr. **Sims**. Well, my recommendations for a change of our policy—that was what I was referring to—will be to require the issuance of a run ticket before removing oil.

Senator **Melcher**. How would that take place?

Mr. **Sims**. It could take place—we have to consider the fact that many tanks require more than one truckload. So what I would propose and what I have proposed to the rest, is they require a bill of lading for the first and any intermediate trucks that leave the lease, and that the run ticket be issued upon loading of the final truck.

Senator **Melcher**. And the bill of lading would refer back to the run ticket which would include all the data on a specific gravity and all the rest of that information?

Mr. **Sims**. It would at least have a run ticket number, but maybe not all that data. But, it would at least have a run ticket number.

Senator **Melcher**. Would you provide us with a copy of your recommendations, Mr. Richmond?

Mr. **Richmond**. Yes.

Senator **Melcher**. In detail. I assume you spelled this all out for them, did you not?

Mr. **Messerli**. I gave them my first recommendations one day last week.

What I proposed was done in a rush, and when it is completed—I gave them their last one today.

Senator **Melcher**. Will you provide us the most complete one?

Mr. **Messerli**. Sure.

Senator **Melcher**. Now, getting back to this, the truck would then carry the ticket for oil from any Indian or Federal lease?

Mr. **Sims**. Yes, sir.

Senator **Melcher**. If I were the owner of the oil, and what we are describing today is much broader than just Indian oil, either allottee or Tribal oil—I would want some assurance of something happening when the oil was removed. So, let us take it from the standpoint in this instance of Williams, the owners of the oil, the producer, owner, and operator of the lease, whether or not they were correct. Mr. Jim Maroney, in Denver, was correct, in wanting Mr. Row to know that he objected to two things; the measurements not being there, the top gaging being one of them, and his employee not being present for the top gaging; and second, having taken the specific gravity and the temperature and the rest of the data 5 days ahead of time. Is it your feeling that the procedure you are recommending to Reston will cover those two points?

Mr. **Sims**. It will cover, I am sure it will. In fact, we still have not addressed the time the measurement must be taken before a sale. In this case, had the measurement been taken and the tank shut in and isolated and left for 5 days, that would have been one case, and I presume that would be acceptable. But in view of the fact they were taken in, production was continued into the tank——

Senator **Melcher**. That is what makes it unacceptable. Yes, of course.

Mr. **Sims**. We still do not address any time limits when the measurement should be taken before the sale, if that is——

Senator **Melcher**. Top gaging, the bottom gaging or all the rest of the data.

Mr. **Sims**. None of it goes.

Senator **Melcher**. Oh, but you are talking about a shut-in tank.

Mr. **Sims**. Yes, we are.

Senator **Melcher**. Specific gravity will not change, will it?

Mr. **Sims**. It should not.

Senator **Melcher**. Well, the temperature could change?

Mr. **Sims**. Yes, it could, if you are talking about a drastic change in temperature.

Senator **Melcher**. Do you have something to add to that, Terry?

Mr. **Messerli**. Yes, sir. It is rather difficult, sometimes, especially when you are hauling by truck—especially in this part of the country—to say, tomorrow, I will have a truck, or even next week, I will have a truck. And if you miss the truck when it is lined up to take the crude, you are going to be right in the back of the line again. Meanwhile, that oil sits there and it can deteriorate.

Senator **Melcher**. Deteriorate? It would not increase in value, would it?

Mr. **Messerli**. No.

Senator **Melcher**. The owner is not going to worry if it is really isolated?

Mr. **Messerli**. Well, I say deteriorate. Perhaps, I should say change.

Senator **Melcher**. Not be more valuable?

Mr. **Messerli**. No.

Senator **Melcher**. It goes the other way?

Mr. **Messerli**. Yes.

Senator **Melcher**. Unless there is a big change in the temperature?

Mr. **Messerli**. The temperature could change.

Mr. **Richmond**. Or if the price went up.

Mr. **Messerli**. That is something we just have to face.

Senator **Melcher**. Now, the incidence of noncompliance that you have not written yet; now that you know the facts, is there going to be an incidence of noncompliance issued?

Mr. **Messerli**. I can write one, but I think this hearing today has probably slapped more hands than any piece of paper with it written down. This comes after the facts.

Senator **Melcher**. Of course, it is after the fact. Your whole action is after the fact. You were up there afterward. We understand that. We are not of the opinion that you have enough personnel to be continuously on these lease sites. We are not so naive to think that. This whole episode is after the fact.

What we are trying to arrive at in this inquiry is whether the procedures prior to the fact have been followed and whether the procedures prior to the fact are adequate. I think there are two things to be said. No. 1, the procedures prior to the fact were not followed, your procedures were not followed. And to sort of dance around that point seems to me to be wasting everybody's time.

Your regulations are not written to mean that you go ahead and take all this data for the run ticket based on a tank that is only half full of oil and that is going to be filled before the oil moves. So that before the fact, your regulations and the law were not fulfilled. Beyond that, it is not after the fact.

The point is, your procedures were not adequate to begin with. We know that now, because the run ticket was not provided with the truck. And it seems elementary to me that a run ticket should be provided by the truck. This little hearing document was 350 pages long. But if we had 10,000 pages of testimony arrived at between various witnesses and GS officials and it all added up to an ineffective means of monitoring oil production from Indian and Federal leases, we still would not have accomplished anything. And we will not accomplish anything until there are other procedures set and other procedures followed. We may be on the track of this now.

We will review very carefully what your suggestions are, Mr. Sims, with the officials in Reston, and we will go through this, I suspect, tomorrow afternoon to some degree. Are you a witness tomorrow afternoon?

Mr. **Sims**. Not to my knowledge, but I can be here.

Senator **Melcher**. You will be monitoring them when they are in Casper?

Still, this flak about the discrepancy in gauging means that there could have been some oil unaccounted for. It has not happened, as I understand it.

Now, are you satisfied, Mr. Messerli, that that oil was all accounted for?

Mr. **Messerli**. I am satisfied that there was not a theft.

Senator **Melcher**. That means that there was no theft, period?

Mr. **Messerli**. I have to take a run ticket, Senator, and accept the run ticket and the trip ticket.

Senator MELCHER. Well, what about after what you have heard today? You have heard the discrepancy in the gaging?

Mr. MESSERLI. Yes.

Senator MELCHER. In your judgment, the oil has all been accounted for because the lower measurement was used?

Mr. MESSERLI. Yes.

Senator MELCHER. Is it not true that if the higher measurement was used, there would be about 10 barrels unaccounted for?

Mr. MESSERLI. I think it has been accounted for.

Senator MELCHER. I think it has been accounted for because the lower figure was used, but if the higher figure were used, there would have been 10 barrels missing, would there not?

Mr. MESSERLI. Yes, sir, but how would anybody be able to judge that unless somebody had actually seen the other gage?

Senator MELCHER. I understand that, you would not have seen it on the run ticket.

Mr. MESSERLI. Right.

Senator MELCHER. But it is a fact that now that this is brought to your attention and it is an example of how something could have happened or 10 barrels could have disappeared?

Mr. MESSERLI. I have never disagreed with that. All sorts of mistakes can happen. I have never disagreed.

Senator MELCHER. The point is, it could have been deliberate, too?

Mr. MESSERLI. Yes, sir. It could have been. I doubt it, but it could have been.

Senator MELCHER. I am not saying that it was, but I am saying there is a possibility it could have been deliberate. And, if it had gone through that way, there would have been 10 barrels unaccounted for?

Mr. MESSERLI. Yes, sir.

Senator MELCHER. Mr. Sims, do you think this is an oversight, that for 10 years time, your GS has been saying that a run ticket is absolutely essential to be with the truck?

Mr. SIMS. In my opinion, the confusion came in that all of our regulations require what would be on the run ticket. What they really do not address, is the exact moment that run ticket must be issued. And I think assumptions were made by reading all of the requirements that were necessary to be included on the run ticket, necessarily assumed that that would be issued at that time.

Senator MELCHER. Well, there are a lot of people assuming that. Now, the chief of the Conservation Division, Dr. Kash, stated that a run ticket was necessary. The supervisor of the north central region has said that. That is where you are now, are you not?

Mr. SIMS. No, I am going to correct that for the record.

Senator MELCHER. You are the acting director?

Mr. SIMS. I am the acting chief of field operations in Casper.

Senator MELCHER. Acting chief?

Mr. SIMS. Yes, sir.

Senator MELCHER. Of field operations?

Mr. SIMS. You promoted me at the beginning of the meeting.

Senator MELCHER. Yes, I gave you a pretty good promotion. Too bad there is no pay increase with it.

Who is Mr. Hull?

Mr. **Sims**. He is the conservation manager for the region.

Senator **Melcher**. Where in the pecking order is Mr. Curtis? Is he your supervisor?

Mr. **Sims**. No, not now, he is in a new position. He is adviser to the manager.

Senator **Melcher**. He was your supervisor?

Mr. **Sims**. He would have been. I am here on behalf of him.

Senator **Melcher**. Who did you succeed?

Mr. **Sims**. Glen Warden.

Senator **Melcher**. Mr. Curtis told us that a run ticket was necessary and he had a full memorandum in his files directing people to have run tickets with the truck. And district engineers and petroleum engineers and technicians have so stated to us.

This looks to us like a very peculiar about-face of USGS.

Mr. **Sims**. My position would have been the same. In fact, it was when I gave my interview to the Post. And I assumed that our regulations required that it be issued at that time, but again, in view of the case, to see what actions we should take, it just appeared that that was not so.

Senator **Melcher**. I guess I will go back to this one point: under any circumstances, this particular incidence with this run ticket was wrong because it involved oil that had not been pumped into the storage tank, and the storage tank had not been sealed off. But beyond that, the testimony we received is that it is not the general practice to have a run ticket in the possession of the truckdriver. That seems to be the fact, at least in this area. And presumably, that has changed. In Wyoming, isn't that true, isn't it a fact that in most instances, there is always a run ticket either on the lease after the truck has left or in the possession of the trucker?

Mr. **Sims**. I would hope so. Yes, sir.

Senator **Melcher**. Then, are you surprised that that is not the situation here, either on Federal leases or Indian leases?

Mr. **Sims**. A little bit, yes, sir.

Senator **Melcher**. It does surprise you?

Mr. **Sims**. Yes, sir.

Senator **Melcher**. Did you know it was that way, Terry?

[No response by the witness.]

Senator **Melcher**. You know, you have been through this crash program where everything was supposed to be looked at; all these Indian leases in particular were supposed to be looked at. Did you realize that it was that way? That nobody carried a run ticket with the truck?

Mr. **Messerli**. Yes, sir, I did. Not in every case.

Senator **Melcher**. No, but it was general, it was just habitual?

Mr. **Messerli**. Fifty to fifty.

Senator **Melcher**. Fifty to fifty.

Mr. **Messerli**. Yes. I guess, that was a general statement; some carry it, some do not.

Senator **Melcher**. Do you think the word was slow in getting out of Casper to tell you what was wanted?

Mr. **Messerli**. I am afraid so. But then, I do not place the blame on Casper, either.

Senator **Melcher**. We are going to place the blame on the whole system of GS. I think this is just another sad occasion where we find out more about the lack of control of GS in the oilfields than what we thought was the case before. It has got to change—you fellows know it just as well as I do—for the confidence of the public to return. And I dare say, I think we are far from through on this.

Secretary Watt has his own panel appointed now for his own special investigation. I am sure the two committees that I mentioned with these two, minority counsel and staff director for Indian affairs, which I serve on, and the Senate Energy Committee, which I will be with tomorrow and Senator Wallop at the hearing in Casper; I am sure that we are going to keep after this until we have a system where people have confidence in us. So that almost all this oil is moved out of production, out of the field and into the sales in an absolutely honest way where everybody is confident that the exception to that is so rare that we do not hear talk about oil thefts being common practice in some oilfields. We just will not hear that anymore because of the enforcement.

I think whatever GS does on both Federal leases and Indian leases will become the method of supervision on private leases, too, but there is a lot of work to do.

Mr. **Messerli**. Does that include cross training technicians as policemen?

Senator **Melcher**. The Geological Survey does not have to be the enforcement agency as far as I am concerned. It does not make any difference what we call the enforcement agency. As far as I am concerned, it will still be within the Department of the Interior. If we do not want to call it the Conservation Division of GS, we can call it something else.

Mr. **Messerli**. I was just referring to a remark from a past hearing that we are the officers on the beat, which I question. I have never had any law enforcement training with technicians, and I have always questioned how somebody can refer to me as a cop and expect cop-type work. That is not my background. That is not my training; that is why I was asking.

Senator **Melcher**. Maybe we should have FBI people on them.

Mr. **Messerli**. I am sure they know a lot more about it than I do.

Senator **Melcher**. I do not think they have your technical side of it. I think what is necessary is a technical side of the enforcing the regulations. That is apparent for whoever is going to enforce the law. If the law is broken, that is a fact. I do not find that hard to follow, Terry.

Mr. **Messerli**. I do not like the idea of going out there and trying to catch a thief in my capacity, and I am sure not the strong arm of the law or the Federal Government in trying to apprehend a thief or anything of that nature, to which I and several other technicians have been confronted.

Senator **Melcher**. If you do not think those regulations are designed to protect the property, then, I think we are looking at these regulations with a 180-degree difference. I think the regulations are designed to protect the property of the people who own the oil.

Mr. **Messerli**. I think I look at them the same way you do, Senator. Yes, we are protecting them.

Senator **Melcher**. That is right.

Mr. **Messerli**. But I am not out there to catch someone.

Senator **Melcher**. If you follow your regulations, and if there is adequate training of the people to understand the regulations, and if the regulations are clear on what is required, then this incident would not have happened where we find GS backing off on whether or not a run ticket is required with the truck, even though there was solid testimony on numerous previous occasions that it was required.

If those regulations are followed, I do not think there will be thefts. If we want to go beyond that, if you need more authority to enforce regulations or if you need broader power under the law, we will look at that, too.

We looked several times specifically at the question of whether GS should have any authority off of the lease itself. The testimony we have received has generally been to the effect that, yes, somebody should have that authority off of the lease because you have to follow the oil to where it is generally sold.

Now, these are the things that we are busy trying to make happen so this system will work. Whether you want to describe it as a cop on the beat—and I have used that term—we need a cop on the beat. Whether that pertains to GS or somebody else, I am not sure. But certainly if we stay with the Conservation Division and reorganize it to the extent that it needs to be reorganized; to make its authority of such consequence that the regulations are followed and the public regains confidence that the oil is moving properly, then this talk about oil theft will be past, behind us, gone. Then, I think we will have established what we have set out to do. But we have not gotten that far yet. It is going to take a while. It may take some changes. We have also kept our minds on that. But, I personally think it is going to take some reorganization of the Conservation Division to the extent of making sure your regulations are clear and are being enforced and there is adequate personnel to do it.

What we have experienced during the past 10 days, and being told that a run ticket is not necessarily essential with the truck, is an example of why change is needed, particularly after we have been told so many times that it had to be with the truck. This is an example of why we have to reorganize the whole Conservation Division.

Mr. **Messerli**. I think the whole point that I am trying to bring out, is GS in effect, has told what they are to do on a lease, whether it satisfies Washington or Congress, or Congress says, let us do it this way; we will do it that way. That is generally the way it works.

Senator **Melcher**. We have been very busy trying to figure out what way you have been doing it, and having a little bit of a problem. I will repeat that this is the latest example of trying to figure out what GS is doing with their regulations—when now, it appears, GS is making a determination that the run ticket may not be worth the trouble. It is brand new to us, after months of going over this with GS. We have had constant testimony that, yes, the run ticket has to be there, or it has to be left at the lease site, one or the other.

Mr. **Messerli**. I heard from the inspector because we were told it had to be there, and I imagine anybody on down the line right above me was told the same thing from somebody above me.

Senator **Melcher**. Then, you would agree with me, I guess, Terry, it switched now. It is not only confusing, it proves a point. What we have been trying to make clear all along is that we really do not know what GS is doing and what they are not doing, and whether the regulations are being followed or not being followed. I have got you on that point.

Mr. **Messerli**. I agree. I have worked for this outfit for several years, now.

Senator **Melcher**. You ought to be hopeful that we succeed, then. I am sure you are.

I want to thank all three of you for being here. I want to thank all the witnesses for coming here today. We appreciate that. I am sorry that this inquiry has taken this long, but there are a couple of inconsistencies that have shown up that have caused us to want to pursue it further in depth. Thank you very much, all of you.

This hearing is adjourned.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

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